

CAI TA 190

-J75

Gov. Doc
Can
T

Canada, Transport
Commissioners for Canada
Board of

(The Board of

TRANSPORT COMMISSIONERS FOR CANADA)

Judgments ...

vol. 42 - 43

1952 - 54

591314

20. 8. 54

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, April 1, 1952

No. 1

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of The Bell Telephone Company of Canada dated August 31, 1951, for an Order approving to be effective on October 1, 1951, revisions of certain of Applicant Company's tariff of rates for exchange services and equipment as set forth in Schedule I attached thereto.

And in the matter of application of The Bell Telephone Company of Canada dated November 15, 1951, for permission to substitute Schedules A and B thereto for Schedules I and II to the first-mentioned application.

Case 955-171

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

FRANK M. MACPHERSON, *Commissioner.*

Appearances:

J. W. PICKUP, Q.C., N. A. MUNNOCH, Q.C., and F. A. BURGESS, for the Bell Telephone Company of Canada.

C. CHOQUETTE, Q.C., and D. A. McDONALD, Q.C., for the City of Montreal.

A. P. G. JOY, for the City of Toronto.

G. C. MEDCALF, Q.C., and D. D. DIPLOCK, for the City of Ottawa.

BENOIT PELLETIER, Q.C., for the City of Quebec.

J. STE. MARIE, Q.C., for the City of Hull.

ALBERT RIVARD, Q.C., for the City of Sherbrooke.

JUDGMENT

WARDROPE, Assistant Chief Commissioner:

This is the final determination of an application of The Bell Telephone Company of Canada (hereinafter called the "Company") dated the 31st August, 1951, for increases in certain rates and charges to meet increased wages, increased taxes, increased pension costs, and other increased operating costs incurred subsequent to our 1950 Judgment.

The Company in the August 31 application sought additional revenues for 1952 of \$15,800,000.00.

Following a Hearing on October 24, 1951, the Board refused to grant the application in full and, pending further investigation, granted an interim increase as set forth in its decision and also Order of November 13, 1951. This decision authorized, generally speaking, a 5 per cent increase in all services. This included an increase on Toll Services (Long Distance) as well as on Contract and Miscellaneous Services. The Company had not sought an increase in Toll charges lest a diminishment of use should be caused thereby, but rather it chose to place all the burden of any increase granted on certain Contract and Other Services. However, at the time of the interim decision the Board in its decision and upon the information then before it was of opinion that any increased charges necessitated by increased costs of operation should be imposed to the fullest extent possible on all sources of revenue. And it felt that Toll charges at least insofar as the quantum of the interim increase was concerned could bear their share of the burden.

The final Hearing of the application commenced on January 7, 1952. Prior to this and because of the imposition by Parliament of an additional 2 per cent Income Tax on Corporations effective January 1, 1952, and because the interim Judgment did not provide for the full rates sought by the Company for the whole of 1952 and also because the Board in view of the provisions of its Circular No. 267 did not permit of immediate re-grouping of certain exchanges, a new and higher schedule of rates by the Company was proposed and filed.

CORPORATE FINANCIAL REQUIREMENTS

The Company estimates the revenues for 1952, with interim rates for two months and proposed rates for ten months, at \$187,855,000.00. The estimated increase in revenue is shown to be \$19,130,000.00 over that obtainable under rates effective January 1, 1951. It is the contention of the Company that there being no other change in revenues or expenses this increase would provide total revenues necessary to meet the estimated operating expenses, current maintenance, depreciation, taxes and interest during 1952—and produce a net income of \$2.56 per share on presently outstanding and proposed-to-be-issued share capital.

The following table summarizes the estimated results for 1952:

Estimated Results for 1952

Total Operating Revenues	\$ 187,855,000
Total Operating Expenses	125,563,000
Net Operating Revenues	\$ 62,292,000
Dominion and Provincial income and other taxes	33,679,000
Net Operating Income	\$ 28,613,000
Other Income, Net	1,980,000
Total Income	\$ 30,593,000
Interest Requirements	7,215,000
Net Income	\$ 23,378,000
Dividend Requirements	18,235,000
Net Addition to Surplus	\$ 5,143,000

Exhibits 10 and 45 indicate that if the proposed rates were in effect for the full twelve months of 1952 the increase in Total Operating Revenues would be \$21,380,000.00.

The foregoing revenue increases of \$19,130,000.00 and \$21,380,000.00 include \$447,000.00 which would be obtained from "re-grouping" and the application of the proposed rates. The Company has submitted that, excluding "re-grouping" revenues, based upon the number of telephones at June 30, 1951, increased to reflect the year 1952 together with revenues to be derived from Extended Area Service, Semi-Public and Public Telephones for limited period, the increase in Total Operating Revenue would be \$20,516,000.00.

In the course of the Hearing, a number of contingencies, the effects of which are indeterminate, were drawn to the Board's attention. While the Company pointed to the possibility of further wage and material cost increases, Respondents suggested a new valuation of the pension fund and possible reduction in the level of corporate income taxes. These, and other such possibilities, are not ones with which the Board can properly deal. Should one or all of these occur the Board could, at that time, reconsider the situation in the light of the then existing circumstances.

CAPITALIZATION OF CONSTRUCTION COST ITEMS

In the course of the 1950 Hearing considerable evidence was adduced respecting the capitalization of certain construction cost items, namely, Pensions, Employees Benefits, General Services and Licences and Other Expenses including Insurance, Accidents and Damages, and Benefit and Medical Department expense. At that time, Mr. J. G. Hutchison, C.A., of the firm of Riddell, Stead, Graham and Hutchison, and witness for the City of Montreal presented evidence to the effect that of the amount of \$5,947,000 charged to operations in 1949, 21 per cent or \$1,248,900 should be charged to construction on the basis of the proportion of construction pay-roll to total pay-roll. Mr. C. K. MacGillivray, C.A., of the firm of Chagnon and MacGillivray, and witness for Respondents, was in general agreement with Mr. Hutchison's evidence, all of which is summarized together with the evidence of the Company in the Judgment of November 15, 1950.

Mr. G. G. Richardson, C.A., senior partner of Clarkson, Gordon and Company, and witness for the City of Toronto, in the present case, testified that of \$9,964,000 included in the Company's estimate of expenses for the year 1952, \$1,873,200 on the basis of the ratio of construction pay-roll to remaining pay-roll of 18.8 per cent should be capitalized, and stated that "the capitalization of these charges would involve allowance for depreciation thereon and for a return on the additional capital". The witness pointed out that the amount here involved was considerably in excess of the amount involved in the 1950 Hearing and was substantially above prior years; that with increasing expenses and with increasing proportion of construction labour to total pay-roll, a proper allocation of these overhead expenses is of great importance in a proper determination of total operating costs. Furthermore, that the Company does capitalize certain overhead items relating to construction work and estimated the amount to be \$1,010,000.00 in 1952.

The Board in its 1950 Judgment generally subscribed to the principles advocated by Mr. Richardson. However, in determining the amount which would be capitalized, the Board on the basis of its own studies concluded "that for rate-making purposes, approximately \$500,000.00 would represent capital expenditure and should therefore be disallowed as a charge to operations". We have reviewed most carefully both the reasons for this disallowance and the method by which it was determined. No evidence has been offered in this case which convinces us that the Board's previous finding was either wrong in principle or unreasonable in application.

The Board finds that the amount of \$9,964,000 includes \$420,000.00 which would not constitute an item for capitalization and therefore reduces the said \$9,964,000.00 to \$9,544,000.00. Based on the ratio of construction pay-roll to total pay-roll of 18.8 per cent, the amount to be capitalized would then be \$1,794,000.00. It would, however, be necessary to allow as a deduction from this amount the depreciation for one year on the accumulation of previous years' amounts which have been charged to expense less the amount of such accumulation included in the telephone plant retired during the previous years. Based on the evidence presented to the Board in this and the previous Hearing, and the reports filed by the Company with the Board, the amount of allowance is estimated at \$1,040,000.00. We therefore find that a fair determination of the amount of disallowance, which for the rate-making purposes of this application may be applied to the estimated expenses for 1952, would be \$1,794,000.00 less \$1,040,000.00, or approximately \$750,000.00.

DEPRECIATION

Mr. J. Cleugh, Comptroller of the Company, in giving evidence with regard to the 1952 estimate, indicated that the depreciation item of \$22,749,000.00 was based on the rates in effect during the first eleven months of 1951. However, when the 1951 rates were finalized in December 1951, there was a resulting reduction in expense of \$320,000.00. Mr. Cleugh stated that the rates would be subjected to annual review towards the end of 1952 and appropriate adjustments would then have to be made to reflect the Company's latest experience of service life, renewal costs and salvage values. Upon cross-examination Mr. Cleugh agreed that while the amount in 1952 might be more or less than in 1951 it should not be included in the estimated depreciation basis for 1952. Assuming \$320,000.00 to be the proper depreciation adjustment, and accepting all other items to the amounts thereof contended for by the Company, it would mean that if the Company had so revised its application the increased revenue figure would have been \$18,635,000.00 rather than \$19,130,000.00.

In reviewing this adjustment to expenses, we have noted that in each of the years 1949, 1950 and 1951 the estimated depreciation was in excess of the actual depreciation by \$193,000.00, \$385,000.00 and \$490,000.00. If this trend continues into 1952, the actual adjustment will be appreciably greater than \$320,000.00. At the same time, as the depreciation base for 1952 will be somewhat higher than for 1951, the application of revised rates could produce an amount in excess of \$320,000.00. It therefore appears that an adjustment of not less than \$320,000.00 to estimated depreciation expense for 1952 is warranted.

DEBT RATIO

The present application includes, amongst other items, interest and dividends on presently outstanding borrowings and capital stock and, in addition, dividends on additional capital stock which the Company proposes to issue in 1952. These amount to \$7,215,000.00 for interest and \$18,235,000.00 for dividends and in total constitute approximately 13 per cent of the total revenue requirements as estimated by the Company for 1952.

It has been the contention of the Company, both in this and the previous Hearing, that it should be allowed earnings at a level sufficient to discharge the obligations of its present and proposed financing. For 1952, the Company proposes to finance its capital requirements by share capital on the basis of one new share at \$33.00 per share for each five shares now held, and 178,470 shares at \$33.75 per share under the Company's employee stock plan. In total the Company estimates that these two sources would provide \$57,523,362.00.

If the financing now contemplated is carried out, the average debt ratio for 1952 is estimated by the Company at approximately 40 per cent. Witness for the City of Toronto by including in equity the instalments received under the employee's stock plan estimated the December 31, 1952 debt ratio at 37.9 per cent and approximately 41 per cent as of December 31, 1953.

Considerable evidence was placed before the Board respecting the means by which the Company has obtained its capital requirements; debt ratio comparisons with electrical and telephone utilities both in Canada and in the United States; and comparative costs of financing by bonds or stock.

The question of what might be a fair and proper debt ratio for determining financial requirements was an issue in the 1950 Hearing and expert witnesses testified on behalf of the Company and on behalf of Respondents. Witnesses for the Company contended that while its then existing debt ratio was approximately 45 per cent, a more proper ratio would be approximately one-third. Witnesses for Respondents gave individual opinions ranging from 45 per cent to as high as 60 per cent. The Board in that case found that a debt ratio of 40 per cent would meet all reasonable tests and provided for the financial requirements of the Company on that basis.

In its 1950 decision, the Board indicated that it was not without some doubt as to whether the Company would carry out an estimated \$50,000,000.00 equity financing in 1951 and \$45,000,000.00 bond financing in 1952. In actual fact, the Company financed \$40,000,000.00 in bonds in 1951. It may therefore in general be stated that the Company's present proposal for 1952 constitutes a reversal of its original intentions to the extent that it now seeks equity capital in 1952 having obtained debt capital in 1951. It also results in an upward adjustment of the Company's debt ratio by approximately 7 percentage points over that for which the Company contended in 1950.

We are, under present circumstances, somewhat impressed with the desirability of strengthening a utility's financial structure to the extent that under conditions of a less favourable money market it would not be basically handicapped in securing necessary additional capital at reasonable terms. And it would appear that such may be attained at reasonable cost to subscribers in comparison with other alternative means of strengthening a utility's financial position. We would, therefore, allow the financial requirements of the Company to be determined on an average debt ratio of 40 per cent. This would permit the Company to carry out its proposed financing for 1952 and, on the basis of the evidence and estimates presently before us, would enable the Company to meet its obligations in 1953.

SURPLUS

The Company submitted an amended schedule of rates and charges which it estimated if made effective by the 1st March, 1952, would, together with the increases allowed by the Board in its interim authorization for the months of January and February 1952, increase the Company's over-all revenues in 1952 by \$19,130,000.00. The Company estimated that this amount after taxes and interest deductions would provide them with the two dollar dividend allowed by the Board in its 1950 Judgment together with a surplus of 56 cents per share.

Exhibit 9, Sheet 2, filed by the Company showed the estimated effect in 1951 and 1952 of the interim rates authorized by the Board. In 1952 the effect for the full year on the Company's calculations would produce a surplus of 12 cents per share.

According to Exhibit 37 the accumulated surplus of the Company at the end of 1951 had been reduced to 37 cents per share from a recent year high of \$2.28 per share in 1945. The accumulated earned surplus at the end of 1951 was approximately \$3,000,000.00.

The Company stated that a minimum of 50 cents per share would be required to restore and maintain the financial soundness of the Company which the President, Mr. Johnson, said had been seriously impaired. And he pointed out in Exhibit 38 that nine regulated electric utilities in Canada, each with total assets of \$25,000,000.00 or more, had since 1939 been able to accumulate on a continuous rising scale greater surplus reserves than the Company. The exhibit showed earned surplus in per cent of common equity and was intended to demonstrate the relatively unfavourable position of the Company.

The Board dealt with the question of surplus in its 1950 decision. After discussing it the Board concluded with the following language:

"In my opinion the surplus per share earnings of the Company, prior to recent years, were not unreasonable. That the historical average would not have been attained if the Board's previous allowance for rate-making purposes had been the average is obvious. The highest full year surplus per share under rates as proposed by the Company is 43 cents in 1951. I would accept this as being a fair measure for 1951. I am not unaware that it would not be attained in 1952. It would, however, over these two years appear to give the Company somewhat more than its long term average. It is not unreasonable to expect, on the estimates and evidence before us, that over a period of years it would provide a surplus comparing not unfavourably with that which the Company has earned in the past."

The 56 cents per share surplus which the Company estimates would result from the application of its proposed rate schedules in 1952 is in excess of the amount deemed reasonable by the Board in the 1950 decision by 13 cents per share. Cogent reasons as to why the Board should at this time subscribe to an increased surplus per share do not appear to exist. Neither has there been evidence that conditions of today are so materially different from conditions of a year ago that reconsideration of the previous surplus per share allowance is required. Furthermore, the paragraph of the Judgment herebefore quoted makes it quite clear that while the Board accepted 43 cents per share for 1951 it was not without consideration of the fact that it would be reduced in 1952, so that for the two years the surplus per share would average out at less than 43 cents.

A second aspect of this question is derived from the fact that the application of the interim rates for 2 months (January and February) and the proposed rates for ten months (March-December inclusive) results in 56 cents per share surplus. On a twelve month basis at proposed rates the surplus per share would approximate 67 cents: or some 50 per cent greater than the amount considered by the Board for the year 1951, and over 100 per cent greater than for the combined years 1951 and 1952.

In the previous decision the Board deemed it advisable to allow a level of rates which, over the long run, might be expected to provide a surplus comparing reasonably with that which the Company had earned in the past. After full consideration of all that has been brought before us, we believe that the situation today justifies the treatment of surplus in a similar manner. We would, therefore, allow 43 cents per share for surplus to be included in the determination of this application.

DEFICIENCY

Having given full consideration to the evidence placed before the Board, the estimates for 1952 may be restated to reflect the adjustments for capital expenditures charged to expenses, depreciation, interest, dividends and surplus and applicable income taxes, as hereinbefore determined.

Total Operating Revenues (at rates effective Jan. 1, 1951)		\$ 168,725,000
Total Operating Expenses	\$ 125,399,000	
Less: depreciation disallowance	320,000	
Add: increase in General Services and Licences.....✓	123,000	125,202,000
Net Operating Revenue		\$ 43,523,000
Other Taxes		6,834,000
Net Income before Income Taxes		\$ 36,689,000
Dominion and Provincial Income Taxes		16,564,000
Net Operating Income		\$ 20,125,000
Other Income		1,980,000
Total Income		\$ 22,105,000
Capital Expenditures charged to Operating Expenses		750,000
Adjusted Total Income		\$ 22,855,000
Financial Requirements:		
Interest	\$ 7,215,000	
Dividends	18,235,000	
Surplus	3,917,000	29,367,000
Revenue Deficiency		\$ 6,512,000
Allowance for Applicable Income Tax		7,827,000
Total Revenue Deficiency		\$ 14,339,000

In consideration of the deficiency above stated we issued, on the 19th February, 1952, our Order No. 78314 which rescinded our Order No. 77720 of the 13th November, 1951. The latter Order authorized certain interim increases in rates and charges which were made effective by the Applicant on the 25th November, 1951.

In Order No. 78314 we have maintained the increase previously authorized in Message Toll Rates (Long Distance) and in Public and Semi-Public coin box charges, but as to all other charges proposed to be increased by the Applicant, as set out in the exhibits filed during the Hearing, we have modified such increases in conformity with our findings herein.

Order No. 78314 therefore forms part of this Judgment and is self-explanatory.

OTTAWA, February 21, 1952.

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

I concur:

FRANK M. MACPHERSON.

ORDER No. 78314

In the matter of the application of The Bell Telephone Company of Canada, dated the 31st August, 1951, and as amended the 15th November, 1951, for an Order, under Section 375 and all other relevant sections of the Railway Act, authorizing certain revisions of the Applicant's tariffs for exchange service and equipment:

Case No. 955-171

TUESDAY, the 19th day of February, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MacPHERSON, *Commissioner.*

Upon hearing the application at sittings of the Board held in the City of Ottawa on January 7 to 11, 1952, in the presence of Counsel for the Applicant and the cities of Hull, Montreal, Ottawa, Quebec, Sherbrooke and Toronto:

And upon further consideration of Order No. 77720, dated the 13th November, 1951, authorizing an interim increase: reasons for Judgment to be given later;

It is ordered that, in lieu of the interim increases authorized by Order No. 77720, dated the 13th November, 1951, the Applicant may publish and file revised tariff schedules, to be effective the 1st day of March, 1952, on not less than three days' notice, adjusting rates and charges in such tariffs to the extent specified in Appendices A, B, and C, of this Order.

It is further ordered that the provisions of Rules 3 and 6 of General Order No. 648 are hereby waived.

Order No. 77720 is hereby rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

APPENDIX A

To

Order No. 78314

AUTHORIZED MAXIMUM INCREASED CHARGES

PUBLIC TELEPHONE SERVICE:

(Tariff: C.T.C. No. 6716, Part II, Sec. 6)

Charge for each public telephone local message..... 10 cents

SEMI-PUBLIC TELEPHONE SERVICE:

(Tariff: C.T.C. No. 6716, Part II, Sec. 7)

Charge for each message from a semi-public telephone..... 10 cents

Daily Guarantee:

Group No.	1	.....	\$ .15
	2	.....	.16
	3	.....	.17
	4	.....	.19
	5	.....	.21
	6	.....	.23
	7	.....	.26
	8	.....	.29
	9	.....	.31
	10	.....	.33

MESSAGE TOLL SERVICE—ONTARIO AND QUEBEC:

(Tariffs: C.T.C. No. 6652, and C.T.C. 6716, Part III, Secs. 2 & 3)

Where the charge on
November 24, 1951, wasAuthorized
Maximum Increase

Over	Not over	
\$.15	\$ 1.45	..... \$ .05
1.45	2.55	..... .10
2.55	3.45	..... .15
3.45	4.55	..... .20
4.55	—	..... .25

PRIVATE LINE TELEPHONE SERVICE:

(Tariff: C.T.C. No. 6716, Part IV, Sheet 2)

Inter-exchange Short Period Service:

Service Period	Monthly Charges		
	First 100 miles, each	Net 100 miles, each	Over 200 miles, each
	\$ cts.	\$ cts.	\$ cts.
10 minutes.....	0 40	0 31	0 25
15 ".....	0 55	0 41	0 32
20 ".....	0 70	0 52	0 40
30 ".....	0 95	0 73	0 56
45 ".....	1 40	1 03	0 77
1 hour.....	1 80	1 34	0 96
1½ hours.....	2 55	1 85	1 40
2 ".....	3 30	2 40	1 80
3 ".....	4 75	3 50	2 60

Minimum monthly charge - \$21.00

APPENDIX B

To

Order No. 78314

AUTHORIZED MONTHLY CHARGES—LOCAL EXCHANGE SERVICE

(Tariff: C.T.C. No. 6716, Part II, Sec. 1, Sheet 6)

Group Number	Type of Service	Monthly Charge	
		Business	Residence
		\$ cts.	\$ cts.
1	One-party line.....	4 80	3 15
	Two-party line.....	3 85	2 65
	Rural line.....	3 35	2 55
	Trunk line (*).	7 20	3 90
2	One-party line.....	5 30	3 30
	Two-party line.....	4 35	2 75
	Rural line.....	3 60	2 65
	Trunk line (*).	7 95	4 15
3	One-party line.....	5 85	3 45
	Two-party line.....	4 85	2 85
	Rural line.....	3 85	2 75
	Trunk line (*).	8 80	4 40
4	One-party line.....	6 50	3 65
	Two-party line.....	5 40	2 95
	Rural line.....	4 10	2 85
	Trunk line (*).	9 75	4 65
5	One-party line.....	7 40	3 90
	Two-party line.....	6 05	3 10
	Rural line.....	4 35	2 95
	Trunk line (*).	11 10	4 90
6	One-party line.....	8 40	4 15
	Two-party line.....	6 75	3 30
	Rural line.....	4 60	3 05
	Trunk line (*).	12 60	5 15
7	One-party line.....	9 70	4 40
	Two-party line.....	.....	3 50
	Rural line.....	4 85	3 15
	Trunk line (*).	14 55	5 45
	Message Rate—one-party line.....	6 65	.....
8	One-party line.....	11 25	4 65
	Two-party line.....	.....	3 70
	Rural line.....	5 35	3 30
	Trunk line (*).	16 90	5 90
	Message Rate—one-party line.....	7 15	.....
9	One-party line.....	12 80	5 00
	Two-party line.....	.....	3 90
	Rural line.....	5 85	3 50
	Trunk line (*).	19 20	6 35
	Message Rate—one-party line.....	7 65	.....

(*) For private branch exchange or Order Turret.

APPENDIX B—(Concluded)

Group Number	Type of Service	Monthly Charge	
		Business	Residence
		\$ cts.	\$ cts.
10	One-party line.....	14 35	5 35
	Two-party line.....	.....	4 15
	Rural line.....	6 35	3 70
	Trunk line (*).	21 55	6 80
	Message Rate—one-party line.....	8 15	.....

(*) For private branch exchange or Order Turret.

APPENDIX C

To

Order No. 78314

AUTHORIZED MONTHLY CHARGES—MISCELLANEOUS SERVICES

TEMPORARY SUBURBAN ZONE SERVICE:

Tariff C.T.C. No.	Exchange	Service	Monthly Charge	
			Business	Residence
			\$ cts.	\$ cts.
6687	Islington.....	One-party line.....	11 15	6 15
6710	New Toronto.....	Trunk line.....	14 85	7 15
6385	Scarboro.....	One-party line.....	10 25	5 90
6638	Weston.....	Trunk line.....	13 50	6 90
6435	Willowdale.....			
6464	Agincourt.....	One-party line.....	9 60	5 70
		Trunk line.....	12 55	6 65
6456	Levis.....	One-party line.....	9 50	5 15
		Trunk line.....	12 75	6 15
6657	Charny.....	One-party line.....	8 85	4 95
6332	Loretteville.....	Trunk line.....	11 80	5 90
6471	St-Romuald d'Etchemin....	One-party line.....	8 30	4 80
		Trunk line.....	10 95	5 65
6700	Notre-Dame des	One-party line.....	7 80	4 65
6691	Laurentides.....	Trunk line.....	10 20	5 40
	Ste-Petronille.....			

TEMPORARY ONE-WAY EXTENDED AREA SERVICE:

Tariff C.T.C. No.	Exchange	Service	Monthly Charge	
			Business	Residence
			\$ cts.	\$ cts.
6656	Gatineau.....	One-party line.....	12 25	5 15
		Trunk line.....	17 90	6 40
6219	Shawinigan Falls.....	One-party line.....	9 40	4 65
6187	Grand'Mere.....	Trunk line.....	13 60	5 65

PRIVATE BRANCH EXCHANGE SERVICE:

(Tariff: C.T.C. No. 6716, Part II, Section 10, Sheets 2 to 5)

Manual Systems:

Monthly Charge

Cordless switchboard	\$ 8.75
Cord non-multiple switchboard position	
Up to 40 local lines	18.50
41 to 80 local lines	23.50
Over 80 local lines (maximum 320 local lines)	32.00
Cord multiple switchboard position	42.00

APPENDIX C—(Continued)

PRIVATE BRANCH EXCHANGE SERVICE—(Continued):

Dial Systems:

	<i>Monthly Charge</i>
Cord dial systems—	
Manual equipment—	
Non-multiple switchboard position	\$32.00
Multiple switchboard position	42.00
Cord multiple switchboard providing for machine and audible ringing, double flashing recall, and idle line indicating up to a maximum of 400 lines equipped, each position	92.50
Dial equipment—	
Selector, connector and selector-connector	3.85
Dial station line terminal .....	.75
3-Digit and 4-Digit systems	67.00
Tie line terminal—one-way selection	3.25
Tie line terminal—two-way selection	4.50
Cordless dial systems—	
Attendant's cabinets	12.00
Selector-connector	3.85
Dial station line terminal .....	.75
Tie line terminal	3.25
Key station dial systems—	
Crossbar switch type—	
Switching equipment	33.50
Dial station line terminal .....	.75
Tie line terminal, one-way selection	3.25
Tie line terminal, two-way selection	4.50
Selector switch type—	
Switching equipment	33.50
Dial station line terminal .....	.75
<i>Private Branch Exchange Telephones: (Hand, Desk or Wall)</i>	
Rate Groups 6 to 10 inclusive, Business Service	1.75

HOTEL PRIVATE BRANCH EXCHANGE SERVICE:

(Tariff: C.T.C. No. 6716, Part II, Section 11, Sheet 1)

<i>Hotel private branch exchange telephones:</i>	<i>Monthly Charge</i>
Rate groups 1 to 5	\$.95
Rate groups 6 to 10	1.20

ORDER TURRETS:

(Tariff: C.T.C. No. 6716, Part II, Section 12)

No. 2 Order Turret—

<i>Two-position</i>	<i>Monthly Charge</i>
Equipped for 20 lines	\$18.50
Equipped for 40 lines	19.50
<i>Four-position</i>	
Equipped for 20 lines	23.50
Equipped for 40 lines	24.50

No. N-1 Order Turret—

<i>Two-position</i>	
Equipped for 20 lines	18.50
Equipped for 40 lines	19.50
<i>Four-position</i>	
Equipped for 20 lines	23.50
Equipped for 40 lines	24.50

Six-position

Equipped for 20 lines	28.50
Equipped for 40 lines	29.50

No. 4 Order Turret, each 5.50*No. 6A Order Turret, each attendant's position, including one attendant's chest transmitter set* 5.50

APPENDIX C—(Continued)

EXTENSION TELEPHONES:

(Tariff: C.T.C. No. 6716, Part II, Section 13)

	<i>Monthly Charge</i>
Rate groups 6 to 10, Business service	\$ 1.75

WIRING PLANS, KEY EQUIPMENT, AND KEY TELEPHONE SYSTEMS:

(Tariff: C.T.C. No. 6716, Part II, Section 14)

<i>Wiring Plans</i>	<i>Monthly Charge</i>
Plan No. 102	
Master telephone	\$ 2.00
Controlled telephone with pick-up .....	.40
Plan No. 110	
Initial master telephone	1.55
Additional master telephone .....	.45
Plan No. 111	
Initial master telephone	1.80
Additional master telephone .....	.70
Controlled telephone with pick-up .....	.45
Plan No. 200	
Initial master telephone	1.70
Additional master telephone	1.20
Plan No. 201	
Initial master telephone	2.70
Additional master telephone	1.10
Controlled telephone with pick-up .....	.70
Plan No. 203	
Each master telephone .....	.65
Plan No. 204	
Each master telephone .....	.85
Plan No. 205	
Initial master telephone	1.40
Additional master telephone	1.15
Plan No. 207	
Initial master telephone	1.85
Additional master telephone .....	.95
Controlled telephone with pick-up .....	.70
<i>Multiple Line Key Equipment</i>	
Line equipment	1.85
Intercommunicating circuit pick-up key .....	.45
<i>Key equipment for use with Attendant's set</i>	
With holding feature	1.20
Without holding feature .....	.95
<i>Key Telephone Systems</i>	
Pick-up	
Each telephone, for each line to be picked up .....	.35
Holding	
Each line equipped .....	.50
Each telephone equipped .....	.35
Line equipment for each private line termination	1.85
Signalling	
Auxiliary signalling, combined code and selective signalling unit .....	.70

APPENDIX C—(Concluded)

CALL ANSWERING BOARDS:

(Tariff: C.T.C. No. 6716, Part II, Section 15)

Board equipped for	Monthly Charge
20 lines	\$27.50
40 lines	32.00
60 lines	36.00
80 lines	41.00

MISCELLANEOUS EQUIPMENT:

(Tariff: C.T.C. No. 6716, Part II, Section 16)

	Monthly Charge
Ordinary type extension bell	\$.35
Attendant's head and chest set .....	.85
Receivers	
Watch-case .....	.25
Single head .....	.25
Double head .....	.45
Telephone for out-door use, wall set, weather proof	1.40

LOCALITY RATES—MONTREAL EXCHANGE:

(Tariff: C.T.C. No. 6689)

VILLE LA SALLE LOCALITY RATE AREA—	Business	Monthly Charge Residence
Flat rate, one-party line	\$16.60	\$ 7.60
Flat rate, two-party line		5.50
Flat rate, Trunk line	23.80	9.05
Message rate, one-party line	10.40	

THREE AND FOUR PARTY LINE SERVICE—

Tariff C.T.C. No.	Exchange	Business	Monthly Charge Residence
6758	Rawdon	\$ 3.60	\$ 2.60
6760	St-Alphonse de Rodriguez		
6757	St-Gabriel de Brandon		
6759	St-Jean de Matha		
6762	St-Michel des Saints		

FOUR-PARTY LINE SERVICE—

6669	Brantford	5.70	
6771	Cayuga	4.00	2.70
6801	Claremont	4.35	2.80
6772	Delhi	4.00	2.70
6773	Fisherville	3.60	2.60
6774	Hagersville	4.00	2.70
6784	Hemmingford	3.60	2.60
6785	Howick	3.60	2.60
6775	Jarvis	3.60	2.60
6793	King	4.75	2.90
6794	Maple	4.75	2.90
6795	Markham	4.35	2.80
6686	North Bay	5.20	3.05
6786	OrNSTOWN	4.00	2.70
6776	Port Dover	4.00	2.70
6777	Port Rowan	4.00	2.70
6697	Quebec	7.35	3.50
6787	St-Chrysostome	3.60	2.60
6788	Ste-Martine	3.60	2.60
6789	St-Remi	4.00	2.70
6797	Schomberg	4.35	2.80
6779	Selkirk	3.60	2.60
6799	Uxbridge	4.00	2.70
6780	Waterford	4.35	2.80
6800	Woodbridge	4.00	2.70
6796	Pickering-Ajax	4.35	2.80

ORDER No. 78460

In the matter of the application of Northern Transportation Company (1947) Limited, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-33

WEDNESDAY, the 5th day of March, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 251 be issued to the Applicant licensing, for the period of one year commencing February 9, 1952, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On rivers, streams, lakes and other waters within the watershed of the Mackenzie River, except Fort Nelson River, Peace River and Liard River (other than the Fort Simpson Airport).

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>M/V Radium Queen</i>	159001	108.37
<i>M/V Radium King</i>	195002	115.34
<i>M/V Radium Cruiser</i>	171801	27.00
<i>M/V Radium Express</i>	171802	40.48
<i>M/V Radium Lad</i>	170773	40.37
<i>M/V Great Bear</i>	170938	153.00
<i>M/V Radium Prince</i>	175123	42.07
<i>M/V George Askew</i>	175156	127.19
<i>M/V Slave</i>	176218	69.45
<i>M/V Peace</i>	192889	69.45
<i>M/V Clearwater</i>	176217	69.45
<i>M/V Radium Gilbert</i>	177784	296.79
<i>M/V Radium Charles</i>	179097	230.05
<i>M/V Radium Scout</i>	179098	23.18
<i>M/V Radium Yellowknife</i>	190334	235.45
<i>M/V Niangua</i>	192908	21.23
<i>M/V alcan</i>	Applied for	11.00
<i>N.P. Barge No. 1</i>	170755	176.73
<i>Radium Barge No. 1</i>	170774	356.39
<i>Radium Barge No. 2</i>	173373	339.63
<i>Radium Barge No. 3</i>	170775	103.18
<i>Radium Barge No. 4</i>	170776	236.88
<i>Radium Barge No. 5</i>	170777	67.37
<i>Radium Barge No. 6</i>	170778	66.18
<i>Radium Barge No. 10</i>	171816	71.15
<i>Radium No. 50</i>	Applied for	37.27
<i>Radium No. 51</i>	192909	37.27
<i>Radium No. 52</i>	Applied for	37.27
<i>Radium No. 75</i>	179089	64.63
<i>Radium No. 100</i>	175125	121.11
<i>Radium No. 101</i>	179088	107.49

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Radium No. 102</i>	190806	105.85
<i>Radium No. 250</i>	Applied for	225.00
<i>Radium No. 251</i>	Applied for	225.00
<i>Radium No. 252</i>	Applied for	225.00
<i>Radium No. 253</i>	Applied for	275.00
<i>Radium No. 254</i>	Applied for	275.00
<i>Radium No. 300</i>	175126	265.89
<i>Radium No. 301</i>	175127	265.89
<i>Radium No. 302</i>	175128	265.89
<i>Radium No. 303</i>	179099	168.78
<i>Radium No. 304</i>	179100	168.78
<i>Radium No. 400</i>	175153	227.32
<i>Radium No. 402</i>	175155	406.60
<i>Radium No. 403</i>	176215	227.32
<i>Radium No. 404</i>	176216	227.32
<i>Radium No. 405</i>	177785	220.83
<i>Radium No. 406</i>	177786	220.83
<i>Radium No. 407</i>	177787	220.83
<i>Radium No. 408</i>	177788	220.83
<i>Radium No. 409</i>	177789	220.83
<i>Radium No. 410</i>	177790	220.83
<i>Radium No. 411</i>	178031	220.83
<i>Radium No. 412</i>	178032	220.83
<i>Radium No. 413</i>	178033	220.83
<i>Radium No. 415</i>	178035	220.83
<i>Radium No. 416</i>	179422	220.83
<i>Radium No. 417</i>	179423	220.83
<i>Radium No. 418</i>	179424	220.83
<i>Radium No. 419</i>	179425	220.83
<i>Radium No. 420</i>	179426	220.83
<i>Radium No. 421</i>	179427	220.83
<i>Radium No. 422</i>	179428	220.83
<i>Radium No. 423</i>	179429	220.83
<i>Radium No. 424</i>	190807	220.83
<i>Radium No. 425</i>	190808	220.83
<i>Radium No. 426</i>	190809	220.83
<i>Radium No. 427</i>	190810	220.83
<i>Radium No. 428</i>	190811	220.83
<i>Radium No. 429</i>	190812	220.83
<i>Radium No. 430</i>	190813	220.83
<i>Radium No. 432</i>	190815	220.83
<i>Radium No. 433</i>	190816	220.83
<i>Radium No. 434</i>	190817	220.83
<i>Radium No. 435</i>	190818	220.83

2. On Bear River, N.W.T., between Fort Norman and Franklin, inclusive.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Radium Franklin</i>	Applied for	102.00
<i>Radium 76</i>	Applied for	77.14
<i>Radium 77</i>	Applied for	77.14
<i>Radium 78</i>	Applied for	77.14
<i>Radium 103</i>	Applied for	106.00

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78478

In the matter of the application of the Yellowknife Transportation Company, hereinafter called the "Applicant Company", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-31

FRIDAY, the 7th day of March, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
 HUGH WARDROPE, *Asst. Chief Commissioner.*
 A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
 H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 253 be issued to the Applicant Company licensing for the period of one year commencing February 9, 1952, the following ships to transport goods by water between all ports and places in Canada accessible by navigation to the said vessels, on the Mackenzie River, Great Slave Lake and Slave River, Fort Smith, N.W.T. and north thereof:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Sandy Jane</i>	177764	95.92
<i>Richard E</i>	179446	105.10
<i>YTC #101</i>	177761	233.76
<i>YTC #102</i>	177762	233.76
<i>YTC #103</i>	177763	231.53
<i>YTC #104</i>	190800	233.06
<i>Saline</i>	192902	22.20
<i>YTC #12</i>	Not registered	103.00
<i>YTC #15</i>	Not registered	250.00
<i>YTC #16</i>	Not registered	250.00

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78528

In the matter of the application of Charles Sanders, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-45

SATURDAY, the 15th day of March, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
 HUGH WARDROPE, *Asst. Chief Commissioner.*
 F. M. MACPHERSON, *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 254 be issued to the Applicant licensing for the period of one year commencing February 9, 1952, the following ship to transport goods between all ports and places in Canada accessible by navigation on Great Slave Lake and the Slave River, Fort Smith and North thereof:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Barge Sanders</i>	Not Registered	200

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 78319 Feb. 19—Restricting the speed of trains over C.P.R. crossing of Parkdale Avenue, Ottawa, Ontario.
- 78320 Feb. 19—Restricting speed of trains at C.P.R. crossing north of station at St-Jovite, Quebec.
- 78321 Feb. 19—Restricting the speed of trains over C.P.R. crossing of Eighth Avenue, Pointe aux Trembles, Quebec.
- 78322 Feb. 19—Approving plan submitted to C.N.R. by Canadian Gulf Oil Co. showing location of crude oil loading facilities at Big Valley, Alta.
- 78323 Feb. 19—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Canada & Gulf Terminal Rly. Co. under Section 9.
- 78324 Feb. 19—Authorizing the C.P.R. to use Bridge No. 46·8 at Tee Lake, Quebec.
- 78325 Feb. 19—Approving plans showing general layout of the overhead bridge at Dunmore Junction, Alta. (C.P.R.)
- 78326 Feb. 19—Authorizing Town of Pointe-aux-Trembles, Que., to construct 32nd Avenue across C.N.R. tracks at mileage 1·68 Longue Pointe Subd.
- 78327 Feb. 19—Permitting the removal of slow order at C.N.R. crossing west of Hagersville, Ont.
- 78328 Feb. 19—Permitting the removal of slow order at C.N.R. crossing mileage 48·4 St. Quentin Subdivision, N.B.
- 78329 Feb. 19—Restricting the speed of trains over C.P.R. crossing of Morris St., Guelph, Ontario.
- 78330 Feb. 19—Authorizing the Dept. of Resources and Development of Canada to construct a highway under the viaduct of the C.N.R. in Jasper National Park, Alberta.
- 78331 Feb. 19—Permitting the removal of slow order at C.P.R. crossing east of station at Oakbank, Manitoba.
- 78332 Feb. 20—Authorizing the Imperial Oil Ltd. to lay five pipe lines under tracks of C.N.R. at Montreal East, Quebec.
- 78333 Feb. 20—Approving certain revisions to tariffs of The Bell Telephone Co. filed to become effective March 16, 1952.
- 78334 Feb. 20—Permitting the removal of slow order at C.N.R. crossing at mileage 13·18 Glendyne Subdivision, N.B.
- 78335 Feb. 20—Authorizing the C.N.R. to install switch at west end of passing track at Boston Bar, B.C.
- 78336 Feb. 20—Authorizing the C.N.R. to install switch at west end of passing track at Stout, B.C.
- 78337 Feb. 20—Restricting the speed of trains over C.P.R. crossing of Hespeler St., Didsbury, Alberta.
- 78338 Feb. 20—Restricting the speed of trains over C.P.R. crossing of 103rd Street, Edmonton, Alberta.
- 78339 Feb. 20—Authorizing the C.P.R. to construct highway crossing over its railway at Louisa and Washington Streets, Greenwood, B.C.
- 78340 Feb. 20—Amending Order No. 78340 dated Feb. 20, 1952, *re* application of C.N.R. for approval of plan *re* overhead bridge at mileage 4·27 Midland Subdivision, Ontario.
- 78341 Feb. 20—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Cumberland Rly. & Coal Co. under Section 9.
- 78342 Feb. 20—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Cumberland Railway & Coal Co. under Section 9.
- 78343 Feb. 20—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Cumberland Railway & Coal Co. under Section 9.
- 78344 Feb. 20—Approving under Maritime Freight Rates Act tolls published in tariff and supplement thereto filed by the Cumberland Railway & Coal Co. under Section 9.
- 78345 Feb. 20—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Cumberland Railway & Coal Co. under Section 9.
- 78346 Feb. 20—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Cumberland Railway & Coal Co. under Section 9.
- 78347 Feb. 20—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Cumberland Railway & Coal Co. under Section 9.
- 78348 Feb. 20—Extending time for installation of protection at C.P.R. crossing of Highway No. 11 at mileage 39·17 Maniwaki Subdivision, Quebec.
- 78349 Feb. 20—Extending time for installation of protection at C.P.R. crossing of Route No. 11 near Chelsea Station, Que.
- 78350 Feb. 20—Authorizing the Village of Labelle to construct the highway across the C.P.R. at Labelle, Que.

- 78351 Feb. 20—Authorizing the C.N.R. to use and operate the Quebec Bridge, in Quebec City, Quebec.
- 78352 Feb. 21—Permitting the removal of slow order at C.N.R. crossing near Sudbury Junction, Ont.
- 78353 Feb. 21—Approving the proposed location of storage tank of Imperial Oil Ltd. near C.P.R. tracks at Broadview, Sask.
- 78354 Feb. 21—Requiring that no railway cars shall be spotted on C.P.R. siding adjacent to Holland Ave., Ottawa, within one hundred feet of either side of the crossing.
- 78355 Feb. 21—Authorizing the C.P.R. to install two electric short-arm gates in lieu of manually operated gates at crossing of Archibald St., St. Boniface, Man.
- 78356 Feb. 21—Permitting the removal of slow order at C.N.R. crossing west of station at Princeville, Quebec.
- 78357 Feb. 21—Permitting the removal of slow order at C.P.R. crossing mileage 87·18 Thompson Subd., B.C.
- 78358 Feb. 21—Permitting the removal of slow order at C.N.R. crossing north of station at Holland Landing, Ontario.
- 78359 Feb. 21—Amending Order No. 75324 dated Oct. 10, 1950, *re* application of City of Calgary to construct 4th Street West under the C.P.R.
- 78360 Feb. 21—Amending Order No. 78139 dated Jan. 22, 1952, *re* application of C.P.R. to be relieved from fencing right-of-way of certain portions of Maniwaki Subdivision, Quebec.
- 78361 Feb. 21—Amending Order No. 77515 dated Oct. 5, 1951, *re* application of C.N.R. for approval of plan showing re-location of station, etc., at Whitworth, Que.
- 78362 Feb. 21—Relieving the C.P.R. from maintaining cattle guards at certain crossings in the Province of Alberta, on its Taber Subdivision.
- 78363 Feb. 21—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Boissevain Subdivision, Province of Manitoba.
- 78364 Feb. 21—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Emerson Subdivision, Province of Manitoba.
- 78365 Feb. 21—Extending time for installation of protection at C.N.R. crossing mileage 94·3 Fort Frances Subdivision, Ontario.
- 78366 Feb. 22—Authorizing issuance of Licence No. C.T.C. (W.T.) 247 to Northwest Steamships Ltd. to transport goods by water.
- 78367 Feb. 22—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Lyleton Subdivision, Manitoba.
- 78368 Feb. 22—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Winnipeg Beach Subdivision, Manitoba.
- 78369 Feb. 22—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Arborg Subdivision, Manitoba.
- 78370 Feb. 22—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Carberry Subdivision, Province of Manitoba.
- 78371 Feb. 22—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Napinka Subdivision, Province of Manitoba.
- 78372 Feb. 22—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Varcoc Subdivision, Province of Manitoba.
- 78373 Feb. 23—Permitting the removal of slow order at C.N.R. crossing at mileage 73·48 Wabamun Subdivision, Province of Alberta.
- 78374 Feb. 23—Approving proposed location of storage tank, etc., of Imperial Oil Ltd. near tracks of C.N.R. at Carlton, Saskatchewan.
- 78375 Feb. 23—Approving agreed charge between the C.N.R., C.P.R., and McColl-Frontenac Oil Co. Ltd. on petroleum products from East Edmonton, Alta., to stations and/or plans in the Provinces of Alberta, Manitoba and Saskatchewan.
- 78376 Feb. 23—Amending Order No. 78247 dated Feb. 6, 1952, *re* restriction of speed at the Montreal & Southern Counties Rly. Co. crossing of Taschereau Boulevard, Greenfield Park, Que.
- 78377 Feb. 23—Authorizing the City of Calgary, Alta., to construct 5th Street West across the C.P.R., Calgary, Alta.
- 78378 Feb. 23—Extending time for installation of protection at C.N.R. crossings at 82nd Street and 113th Avenue, Edmonton, Alta.
- 78379 Feb. 25—Dismissing the application of Board of School Trustees of School District No. 61, Greater Victoria, B.C., for construction of a sidewalk on the bridge carrying Helmcken Road over the Colquitz River, etc.

- 78380 Feb. 25—Authorizing the Town of Magrath, Alta., to construct the highway across the C.P.R. between 1st Street West and Highway No. 5.
- 78381 Feb. 25—Authorizing the C.P.R. to operate their trains over sidings of The Toronto Harbour Commissioners serving Victory Mills Ltd., Toronto, Ont.
- 78382 Feb. 25—Authorizing the C.N.R. to reconstruct the bridge over Mill Creek, mileage 39·5 Montmagny Subdivision, Quebec.
- 78383 Feb. 25—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its La Riviere Subdivision, Province of Manitoba.
- 78384 Feb. 25—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Bredenbury Subdivision, Province of Manitoba.
- 78385 Feb. 25—Requiring the C.N.R. to install protection at crossing of Notre Dame St., Town of St. Felicien, Que.
- 78386 Feb. 26—Amending Appendix "A" to Order No. 68549 as amended by Order No. 76199 *re* tariffs mileage distances of licensed water carriers, Mackenzie River watershed.
- 78387 Feb. 26—Restricting speed of trains over C.N.R. crossing of Dalhousie St., Campbellton, N.B.
- 78388 Feb. 26—Extending time for installation of protection at C.P.R. crossing near Vacluse Station, Quebec.
- 78389 Feb. 26—Restricting speed of trains at British Columbia Electric Rly. Co. Ltd. crossing of 13th Avenue, City of Vancouver, B.C.
- 78390 Feb. 26—Permitting the removal of slow order at C.P.R. crossing east of the station at Port Hope, Ont.
- 78391 Feb. 26—Authorizing The Algoma Central & Hudson Bay Rly. Co. to remove its shelter at Wabos, Ont.
- 78392 Feb. 26—Permitting the removal of slow order at C.N.R. crossing near Brechin East, Ontario.
- 78393 Feb. 26—Amending Order No. 77380 and Order No. 77910 *re* application of Maritime Board of Trade for one rate zone on Prince Edward Island in regard to potatoes.
- 78394 Feb. 26—Approving under Maritime Freight Rates Act tolls published in tariff filed by Sydney & Louisburg Rly Co. under Section 9.
- 78395 Feb. 26—Approving under Maritime Freight Rates Act tolls published in tariff filed by Sydney & Louisburg Rly. Co. under Section 9.
- 78396 }
78397 }
78398 }
78399 } Feb. 26—Approving under Maritime Freight Rates Act tolls published in tariff filed
78400 } by the Sydney & Louisburg Railway Co. under Section 9.
78401 }
78402 }
78403 }
- 78404 } Feb. 26—Approving Traffic Agreements between Bell Telephone Co. with certain
78405 } connecting telephone systems.
- 78406 Feb. 26—Permitting the removal of slow order at C.P.R. crossing of North Queen St., Town of Mimico, Ont.
- 78407 Feb. 26—Restricting the speed of trains over C.N.R. crossing of Main St., Town of Dauphin, Man.
- 78408 Feb. 26—Approving proposed location of storage tanks of Smith Manufacturing Co. Ltd., near C.P.R. tracks at Toronto, Ont.
- 78409 Feb. 26—Authorizing the Dominion Atlantic Rly. Co. to operate bridge over the Sackville River at mileage 10·5 Halifax Subdivision, Nova Scotia.
- 78410 Feb. 26—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 78411 Feb. 27—Authorizing the C.N.R. to operate bridge over Bonaventure River, mileage 90·1 Cascapedia Subdivision, Quebec.
- 78412 Feb. 27—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Broadview Subdivision, Province of Saskatchewan.
- 78413 Feb. 27—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Red Deer Subdivision, Province of Alberta.
- 78414 Feb. 27—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Minota Subdivision, Province of Manitoba.

- 78415 Feb. 27—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Russell Subdivision, Province of Manitoba.
- 78416 Feb. 27—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Ignace Subdivision, Ontario.
- 78417 Feb. 27—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Bassano Subdivision, Province of Alberta.
- 78418 Feb. 29—Relieving C.P.R. from maintaining cattle guards at certain highway crossings on its Lenore Subdivision, Province of Manitoba.
- 78419 Feb. 29—Approving proposed location of storage tank of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Granby, Quebec.
- 78420 Feb. 29—Appointing R. Kerr as Acting Secretary, in absence of the Secretary and Asst. Secretary, effective during February 28 and 29, 1952.
- 78421 Feb. 29—Withdrawing Board's Approval of Agreed Charge Tariff C.T.C. (A.C.) No. 36 in so far as it applied between McColl-Frontenac Oil Co. Ltd., and the railway parties thereto.
- 78422 Feb. 29—Permitting the removal of slow order at C.P.R. crossing of Valois Ave., Town of Pointe Claire, Quebec.
- 78423 Feb. 29—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Sydney & Louisburg Rly. Co. under Section 9.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, April 15, 1952

No. 2

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 78533

In the matter of the application of Canada Steamship Lines Limited and the Northern Navigation Company Limited (a wholly owned subsidiary operated as "Northern Navigation Division") hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-4-1

WEDNESDAY, the 19th day of March, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon consideration of the application—

It is ordered that, subject to any exemption granted pursuant to subsection 2 of Section 12 of The Transport Act, 1938, Licence Number C.T.C. (W.T.) 249 be issued to the Applicant licensing, for the period of one year commencing January 15, 1952, the following ships to transport passengers between all ports and places in Canada on the St. Lawrence River between Montreal and the West end of the Island of Orleans:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Richelieu</i>	150828	5528
<i>St. Lawrence</i>	153438	6328
<i>Tadoussac</i>	153447	7013

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78553

In the matter of the application of Upper Lakes and St. Lawrence Transportation Company Limited, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-22

SATURDAY, the 22nd day of March, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 256 be issued to the Applicant licensing for the period of one year commencing January 15, 1952, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Brown Beaver</i>	160721	1892
<i>Charles R. Huntley</i>	148898	1760
<i>Grey Beaver</i>	160722	1892
<i>James Stewart</i>	148901	1760
<i>John S. Pillsbury</i>	149071	1754
<i>Judge Kenefick</i>	148430	1745
<i>Shelton Weed</i>	148453	1745

2. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River as far seaward as Prescott, Ontario:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Ralph Budd</i>	154862	4537

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78558

In the matter of the application of the Abitibi Navigation Company, Limited, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-18

SATURDAY, the 22nd day of March, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 255 be issued to the Applicant licensing for the period of one year commencing January 15, 1952, the following ship to transport goods by water between all ports and places in Canada in the areas designated herein:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
Wahcondah	102577	1575

Between all ports or places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78572

In the matter of the application of The British Yukon Railway Company, under Section 322 of the Railway Act, for approval of proposed Supplement No. 4 to Northern Freight Classification No. 7, B.Y.R. Co. C.T.C. No. 45, on file with the Board under file No. 45801:

TUESDAY, the 25th day of March, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Supplement No. 4 to Northern Freight Classification No. 7, on file with the Board under tariff file B.Y.R. Co. C.T.C. No. 45, be, and it is hereby, approved.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78605

In the matter of the application of the Canadian Pacific Railway Company, under Section 21 of The Transport Act, 1938, for approval of its Standard Mileage Freight Tariff C.T.C. No. E.5189:

File No. 42082-7

THURSDAY, the 27th day of March, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Standard Mileage Freight Tariff C.T.C. No. E.5189 of the Canadian Pacific Railway Company be, and it is hereby, approved, subject to complaint and investigation and determination as to rates or charges, as provided by The Transport Act, 1938.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 78601

In the matter of the application of Northern Transportation Company (1947) Limited, for a licence under Section 10 of The Transport Act, 1938, and Order No. 74460, dated March 5, 1952:

File No. 42076-33

THURSDAY, the 27th day of March, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 78460, dated March 5, 1952, be, and it is hereby, amended by adding the following paragraph to the operative part of the said Order:

"3. Between Waterways, Alberta, and all ports and places on Lake Athabaska:

Vessel Name

Radium 350

Radium 351

Radium 352".

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 78604

In the matter of the application of the Niagara, St. Catharines & Toronto Railway Company, hereinafter called the "Applicant Company", under Section 334(1) of the Railway Act, for approval of its Standard Passenger Tariff C.T.C. No. 627, on file with the Board under file No. 34322:

THURSDAY, the 27th day of March, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the Applicant Company's Standard Passenger Tariff C.T.C. No. 627, on file with the Board under file No. 34322, be, and it is hereby, approved; the said tariff, with a reference to this Order, to be published in at least two consecutive weekly issues of The Canada Gazette.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 78620

In the matter of the application of McInnes Products Corporation Limited, Edmonton, Alberta, hereinafter called the "Applicant", for a licence under Section 10 of the Transport Act, 1938:

File No. 42076-32

FRIDAY, the 28th day of March, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 257 be issued to the Applicant licensing for the period of one year commencing February 9, 1952, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

- (a) Between Waterways and ports and places on Great Slave Lake and all intermediate points.
- (b) Between ports and places on Lake Athabaska.
- (c) Between ports and places on Lake Athabaska and ports and places described in (a) hereof.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Nor-Alta</i>	158312	101
<i>Nor-Basca</i>	156571	30
<i>Beaver Lake</i>	171632	54
<i>Cross Fox</i>	157170	17
<i>Liard River</i>	150795	36
<i>Dease Lake</i>	156579	95

<i>Barges</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>MPC 21</i>	175676	217
<i>MPC 32</i>	172331	195
<i>MPC 33</i>	175136	213
<i>MPC 36</i>	193252	350
<i>HB 15</i>	174964	42
<i>HB 18</i>	173710	53
<i>HB 21</i>	171649	195
<i>HB 23</i>	174968	192
<i>HB 24</i>	174969	64
<i>HB 25</i>	175551	64
<i>HB 26</i>	175552	149
<i>HB 204</i>	157172	275
<i>HB 205</i>	171648	271
<i>HB 207</i>	171634	169
<i>HB 253</i>	171637	190

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, FEBRUARY, 1952

Railway Accidents	237	Killed 13	Injured 236
Level Crossing Accidents	48	Killed 21	Injured 63
Totals.....	285	Killed 34	Injured 299

	Killed	Injured
Passengers	—	28
Employees	8	197
Others	26	74
Totals.....	34	299

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

Accidents K. I.

- 1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 61334.

NEW BRUNSWICK

- 1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 24407.
1 — 2 Auto truck ran into side of train. Licence: N.B. C-2590.

QUEBEC

- 1 — 1 Snow-blower drove onto crossing in front of approaching train and was struck. Licence: Que. 30796.
1 — 1 Automobile ran into side of train. Licence: Que. 131-489.
1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 257-078.
1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. G-7078.
1 — 2 Automobile ran into side of train. Licence not given.

ONTARIO

- 1 1 — Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1 — 3 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 24-T-9.
1 1 — Pedestrian walked onto track in front of approaching train and was struck.
1 2 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 32-S-92.
1 — 1 Automobile backed into path of moving train. Licence: Ont. 12-H-3.
1 1 — Pedestrian walked onto track in front of approaching train and was struck.
1 1 — Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 22592-B.
1 — 4 Auto truck ran into side of train. Licence: Ont. 29102-C.
1 — 1 Automobile ran into side of train. Licence: Ont. 3-P-652.
1 1 2 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 247-V-3.
1 1 2 Auto truck drove onto crossing in front of approaching track motor car and was struck. Licence not given.
1 1 — Pedestrian walked onto track in front of approaching train and was struck.
1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. E-35781.
1 — 1 Auto truck drove onto crossing in front of approaching track motor car and was struck. Licence not given.
1 1 2 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. S-561.

Accidents K. I.

1	3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: CK-901.
1	—	1	Automobile drove onto crossing in front of approaching track motor car and was struck. Licence: Ont. 746-U-3.
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. A-8421.
1	—	1	Auto truck ran into side of train. Licence: Ont. C-48967.
1	—	1	Automobile ran into side of train. Licence: Ont. L-499-K-4.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 12-714-B.
1	—	2	Automobile ran into side of train. Licence not given.
1	—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 894-H-5.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 57-455-C.

MANITOBA

1	—	1	Auto truck ran into side of train. Licence: Man. C-T-26.
1	—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. F-46537.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-49498.

SASKATCHEWAN

1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-100-37.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 48-338.

ALBERTA

1	—	2	Automobile ran into side of track motor car trailer. Licence: Alta. 154-427.
1	—	4	Automobile ran into side of train. Licence: Alta. 93788.
1	—	1	Automobile ran into side of train. Licence: Alta. 121964.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. TV-7733.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. F-64-772.

BRITISH COLUMBIA

1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 50976.
1	4	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 101-170.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Auto truck drove onto crossing in front of approaching track motor car and was struck. Licence not given.
1	1	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-41405.

Of the 48 accidents at highway crossings, 37 occurred at unprotected crossings, and 11 at protected crossings. Thirty of the accidents occurred after sunrise and eighteen after sunset.

OTTAWA, Ontario, April 4, 1952.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 78424 Feb. 29—Approving under Maritime Freight Rates Act tolls published in Tariffs filed by the Sydney & Louisburg Railway Co. under Section 9.
- 78425 Feb. 29—Approving under Maritime Freight Rates Act tolls published in Tariffs filed by the Sydney & Louisburg Railway Co. under Section 9.
- 78426 Feb. 29—Approving under Maritime Freight Rates Act tolls published in Tariffs filed by the Sydney & Louisburg Railway Co. under Section 9.
- 78427 Feb. 29—Approving under Maritime Freight Rates Act tolls published in Tariffs filed by the Sydney & Louisburg Railway Co. under Section 9.
- 78428 Feb. 29—Approving under Maritime Freight Rates Act tolls published in Tariffs filed by the Sydney & Louisburg Railway Co. under Section 9.
- 78429 Feb. 29—Approving operation of C.P.R. trains over siding serving the Canada Match Co. Ltd., mileage 118.0 Lachute Subd., Quebec.
- 78430 Feb. 29—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Rapid City Subd., Manitoba.
- 78431 Feb. 29—Authorizing the Algoma Central & Hudson Bay Rly. Co. to reconstruct bridge across the Little Agawa Creek, Ontario.
- 78432 Feb. 29—Authorizing the C.N.R. to open for carriage of traffic the extension, 3.65 miles in length to its Bonnyville Branch, Province of Alberta.
- 78433 Feb. 29—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Crossfield Subd., Province of Alberta.
- 78434 Feb. 29—Extending time for installation of protection at C.P.R. crossing near Foster Station, Que.
- 78435 Feb. 29—Approving plan showing changes to electric interlocking at Fairville, N.B.
- 78436 Feb. 29—Approving proposed location of storage tank, etc. of Tor-American Oils Ltd. near C.N.R. at Bonnyville, Alta.
- 78437 Mar. 1—Authorizing The Algoma Central & Hudson Bay Rly. Co. to reconstruct the bridge over the Hawk River, Ontario.
- 78438 Mar. 3—Permitting the removal of slow order at Quebec Central Railway crossing in the Town of Black Lake, Que.
- 78439 Mar. 3—Extending the time for installation of protection at C.N.R. crossing at mileage 15.82 Macamic Subd., Quebec.
- 78440 Mar. 3—Extending time for installation of protection at C.N.R. crossing of Downie Street, City of Stratford, Ont.
- 78441 Mar. 3—Permitting the removal of slow order at Quebec Central Railway crossing west of station at Courcelles, Que.
- 78442 Mar. 3—Requiring that no trains shall pass over the C.N.R. crossing of Stanley Street, Niagara Falls, Ont., at a speed greater than twenty miles an hour.
- 78443 Mar. 3—Approving proposed location of storage tank, etc., of the C.N.R. near their tracks at Cape Tormentine, N.B.
- 78444 Mar. 3—Authorizing the C.N.R. to construct their railway upon and across Warden Avenue, to connect with private spur serving Canadian Triangle Wire & Cable Co. Ltd., Township of Scarboro, Ontario.
- 78445 Mar. 4—Authorizing issuance of Licence No. C.T.C. (W.T.) 250 to Colonial Steamships, Ltd.
- 78446 Mar. 4—Authorizing New York Central Railway, to re-locate the wig-wag signals of Stanley Avenue crossing, east of Montrose Yard, Township of Stamford, Ontario.
- 78447 Mar. 4—Authorizing issuance of Licence No. C.T.C. (W.T.) 248 to Canada Steamship Lines Ltd.
- 78448 Mar. 4—Approving revised plan showing proposed changes in the circuits controlling automatic protection and C.N.R. crossing of Chambly Road, Longueuil, Que.
- 78449 Mar. 4—Authorizing issuance of Licence No. C.T.C. (W.T.) 252 to Governor and Company of Adventures of England.
- 78450 Mar. 4—Sanctioning and approving operation of C.N.R. over private siding serving the British American Oil Co. Ltd. in Montreal East, Que.
- 78451 Mar. 4—Approving certain revised tariffs of the Bell Telephone Company of Canada.
- 78452 Mar. 4—Extending time within which C.P.R. was to install flashing light signals and bell at Logan Avenue crossing, Winnipeg, Man.
- 78453 Mar. 4—Directing C.N.R. to install and maintain two flashing light signals and one bell at Montrose Road crossing, second west of Stamford, Ont.
- 78454 Mar. 4—Authorizing C.N.R. to cut all brush and remove obstructions to views at crossing at mileage 22.1 Macamic Subd., Municipality of Colombourg, Que.
- 78455 Mar. 5—Permitting removal of slow order at C.P.R. crossing, first north of Balzac Station, Alberta.
- 78456 Mar. 5—Permitting removal of slow order at C.P.R. crossing first south of Rimbey, Alberta.

- 78457 Mar. 5—Approving proposed location of pipe lines, etc., of North Star Oil Ltd., near C.N.R. tracks, at Pine River, Man.
- 78458 Mar. 5—Permitting removal of slow order at C.N.R. crossing mileage 67·34 Yale Subdivision, British Columbia.
- 78459 Mar. 5—Permitting removal of slow order at Essex Terminal Rly. Co. crossing of Felix Avenue, Windsor, Ont.
- 78460 Mar. 5—Authorizing issuance of licence No. C.T.C. (W.T.) 251 to Northern Transportation Co. (1947) Ltd.
- 78461 Mar. 5—Approving the issue and sale of shares of the capital stock of the Bell Telephone Company of Canada.
- 78462 Mar. 5—Permitting removal of slow order at New York Central Railway crossing one mile east of Mull, Ont.
- 78463 Mar. 5—Approving various Traffic Agreements between The Bell Telephone Company of Canada and certain connecting telephone systems.
- 78464 Mar. 5—Approving various traffic agreements between The Bell Telephone Company of Canada and certain connecting telephone systems.
- 78465 Mar. 5—Authorizing Department of Public Works, British Columbia, to re-locate the highway which crosses C.N.R. at mileage 62·1 Okanagan Subdivision, and to construct and maintain it, as re-located across C.N.R. at mileage 62·00 Okanagan Subdivision.
- 78466 Mar. 6—Authorizing C.N.R. to reconstruct the bridge over Smiths Creek, Ontario.
- 78467 Mar. 6—Amending Order No. 78351, dated Feb. 20, 1952, *re* operation of C.N.R. Quebec Bridge, near Quebec City.
- 78468 Mar. 6—Authorizing C.N.R. to reconstruct bridge over Eagle Creek, Saskatchewan.
- 78469 Mar. 6—Approving Supp. No. 2 to traffic agreement between The Bell Telephone Co. of Canada and The Megantic People's Telephone Co.
- 78470 Mar. 6—Authorizing C.N.R. to reconstruct their bridge over Muskoka River, Ontario.
- 78471 Mar. 7—Approving proposed location of connecting pipe lines, etc., of Modern Tool Works Ltd. near C.N.R. tracks at Toronto, Ontario.
- 78472 Mar. 7—Authorizing County of Grande Prairie No. 1, to construct the highway across right-of-way of Northern Alberta Rlys. at mileage 83·78 Grande Prairie Subdivision.
- 78473 Mar. 7—Permitting removal of slow order at C.N.R. Concession Road crossing, Township of Grattan, Ontario.
- 78474 Mar. 7—Authorizing C.N.R. to re-locate signals at Vidal Street crossing, Sarnia, Ont.
- 78475 Mar. 7—Directing that no engine, car or train shall pass over Wilcox Street crossing, Hamilton, Ont., T.H. & B. Rly. at a speed greater than fifteen miles per hour.
- 78476 Mar. 13—Restricting the speed of trains at C.P.R. crossing of 106th Street, Edmonton, Alberta.
- 78477 Mar. 7—Approving proposed location of connecting pipe lines, etc., of the Brown Corporation, near C.N.R. tracks at Sanmaur, Que.
- 78478 Mar. 7—Authorizing issuance of licence No. C.T.C. (W.T.) 253 to Yellowknife Transportation Company.
- 78479 Mar. 7—Directing C.P.R. to install and maintain two flashing light signals and one bell at Madoc Road crossing, Ontario.
- 78480 Mar. 8—Authorizing C.P.R. to operate its trains through interlocking plant at Harrison River Bridge, Harrison Mills, B.C.
- 78481 Mar. 10—Authorizing the Great Northern Rly. Co. to construct a branch line to serve the West Coast Hardwood Ltd. on Glen Drive and Sixth Avenue, etc., Vancouver, B.C.
- 78482 Mar. 10—Directing that all train movements over Burlington St. (Beach line) crossing, C.N.R. be flagged by member of train crew.
- 78483 Mar. 10—Permitting removal of slow order at Cottesmore Avenue crossing, C.N.R., Cobourg, Ont.
- 78484 Mar. 10—Directing C.P.R. to install and maintain two flashing light signals and one bell at crossing mileage 20·28 Little Current Subdivision south of White Fish Falls Station, Ont.
- 78485 Mar. 10—Amending Order No. 77494, dated Oct. 3, 1951, *re* construction of Victoria Street across C.P.R. right-of-way in Village of MacGregor, Man.
- 78486 Mar. 10—Authorizing Department of Highways, Ontario, to construct a temporary highway crossing over C.N.R. right-of-way in Lot 35, Concession 14, Township of Mowat, Ontario; upon completion of overhead bridge C.N.R. to close the temporary crossing hereby authorized.
- 78487 Mar. 10—Exempting the White Pass and Yukon Route from application of General Order No. 750.
- 78488 Mar. 10—Approving revised plan showing proposed changes to automatic interlocking plant at crossing of Nipissing Central Rly. and C.N.R. at Rouyn, P.Q.
- 78489 Mar. 11—Directing that no engine, car or train shall pass over C.N.R. crossing of Cannon Street at Ferguson Avenue, Hamilton, Ont., at a speed greater than ten miles an hour.

- 78490 Mar. 11—Permitting removal of slow order at Sydney and Louisburg Rly. crossing of Victoria Road, Sydney, N.S.
- 78491 Mar. 11—Permitting removal of slow order at Toronto, Hamilton & Buffalo Rly. crossing, one mile east of Vinemount, Ont.
- 78492 Mar. 11—Permitting removal of slow order at C.N.R. crossing first west of Ste. Monique Station, Quebec.
- 78493 Mar. 11—Directing that no engine, car or train shall pass over C.P.R. crossing of George Street, Belleville, Ont., at a speed greater than ten miles an hour.
- 78494 Mar. 11—Permitting removal of slow order at C.N.R. crossing of Old Bach Road, Township of Kingston, Ontario.
- 78495 Mar. 11—Permitting removal of slow order at C.N.R. crossing between Campbellford and Hastings, Township of Percy, Ontario.
- 78496 Mar. 11—Permitting removal of slow order at C.P.R. crossing, first east of Staynerville Station, Quebec.
- 78497 Mar. 11—Approving proposed location of connecting pipe lines, etc., of Brown Corporation, near C.N.R. tracks at Windigo, P.Q.
- 78498 Mar. 11—Approving proposed location of connecting pipe lines, etc., of Hydro Electric Power Commission of Ontario, near C.N.R. at Niagara Falls, Ont.
- 78499 Mar. 11—Permitting removal of slow order at C.P.R. crossing first west of Bar River Station, Ontario.
- 78500 Mar. 11—Approving vertical clearance on the proposed siding serving York Steel Construction Co. at mileage 7·00 Newmarket Subd. of the C.N.R., Ontario.
- 78501 Mar. 11—Approving the clearances of the proposed umbrella roof over C.P. Express platform east of Yonge Street, Toronto, Ont.
- 78502 Mar. 11—Authorizing Department of Highways, Alberta, to construct the road allowance between S. 13, Twp. 78, Rge. 2, W. 6th M. and S. 18, Twp. 78, Rge. 1, W. 6th M., Alberta, across right-of-way of Northern Alberta Rlys. at mileage 326·32 Smoky Subdivision.
- 78503 Mar. 11—Permitting removal of slow order at C.P.R. crossing of West Street, Trenton, Ont.
- 78504 Mar. 11—Permitting removal of slow order at C.N.R. crossing of Bridge Street, Stellarton, N.S.
- 78505 Mar. 11—Directing that no engine, car or train shall pass over C.P.R. crossing of St. Florent Street, Hull, P.Q., as a speed greater than ten miles an hour.
- 78506 Mar. 12—Permitting removal of slow order at C.P.R. crossing of Main Street, first west of Gatineau Station, Quebec.
- 78507 Mar. 12—Amending Order No. 56099, *re* station agent at Eriau, Ont., Pere Marquette Rly. Co.
- 78508 Mar. 12—Permitting removal of slow order at C.P.R. crossing immediately west of the station at Tichborne, Ontario.
- 78509 Mar. 12—Permitting removal of slow order at C.N.R. crossing of Kennedy Road, second west of station at Scarboro, Ontario.
- 78510 Mar. 12—Authorizing Corp. of District of Surrey, to construct and maintain the Coast Merideau Road across the right-of-way of C.N.R. at mileage 111·7 Yale Subdivision, District of Surrey, British Columbia.
- 78511 Mar. 12—Approving proposed location of warehouse, etc. of Champlain Oil Co. Ltd., near C.N.R. tracks at Iberville, Quebec.
- 78512 Mar. 12—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.N.R. tracks at Eckville, Alberta.
- 78513 Mar. 12—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 78514 Mar. 12—Approving agreement between the Dominion Electric Protection Co. and The Dominion Messenger & Signal Co. Ltd.
- 78515 Mar. 12—Requiring that no train shall pass over the C.N.R. crossing of St. Joseph Street, Town of La Tuque, Que., at a speed greater than ten miles per hour.
- 78516 Mar. 12—Permitting the removal of slow order at C.N.R. crossing first west of station at Antigonish, N.S.
- 78517 Mar. 12—Approving proposed location of warehouse, etc., of Central Gas Utilities (Vulcan) Ltd. near tracks of C.P.R. at Vulcan, Alta.
- 78518 Mar. 12—Approving proposed location of storage tank, etc., of the Royalite Oil Co. Ltd., near tracks of the C.N.R. at Coleville, Sask.
- 78519 Mar. 13—Restricting the speed of trains over C.P.R. crossing of Boom Street, Fort Coulonge, Que.
- 78520 Mar. 13—Permitting the removal of slow order at C.P.R. crossing south of station at Duval, Sask.
- 78521 Mar. 13—Permitting the removal of slow order at C.N.R. crossing first west of station at Rorketon, Man.
- 78522 Mar. 13—Permitting the removal of slow order at C.N.R. crossing first west of station at Vassar, Man.

- 78523 Mar. 13—Restricting the speed of trains over C.N.R. crossing east of station at St. Boniface, Man.
- 78524 Mar. 13—Permitting the removal of slow order at C.P.R. crossing west of station at MacGregor, Man.
- 78525 Mar. 13—Permitting the removal of slow order at C.N.R. crossing of highway at mileage 37.1 Tisdale Subdivision.
- 78526 Mar. 14—Extending time for installation of protection at C.N.R. crossing of Highway No. 15, near Elgin Station, Ont.
- 78527 Mar. 15—Dismissing application of C.N.R. to remove station agent at Medway, N.S.
- 78528 Mar. 15—Authorizing issuance of licence to Chas. Sanders for barge to operate Great Slave Lake, etc.
- 78529 Mar. 17—Authorizing the T.H. & B. Rly. Co. to re-locate protection at Emerson Street, Hamilton, Ont.
- 78530 Mar. 17—Granting leave to Trans Mountain Oil Pipe Line Co. to assign its company oil pipe line Edmonton to Vancouver to Montreal Trust Co.
- 78531 Mar. 17—Approving plan showing changes in protection at home signal at crossing of the C.N.R. and railway of the C.P.R. at Lachevrotiere, Que.
- 78532 Mar. 19—Approving plan showing changes to home signals at crossing of C.N.R. at railway of the C.P.R. at St. Cloud, Ont.
- 78533 Mar. 19—Authorizing issuance of licence to Canada Steamship Lines Ltd., and Northern Navigation Co. Ltd., for certain ships.
- 78534 Mar. 19—Permitting the removal of slow order at C.P.R. crossing mileage 128 Cascade Subdivision, Vancouver, B.C.
- 78535 Mar. 19—Requiring that all train movements be flagged by a member of the train crew over crossing of Provincial Highway No. 7 east of Havelock, Ontario.
- 78536 Mar. 19—Approving the abandonment of operation of portion of the Sheila Branch of the C.N.R. from Tracadie, N.B., to Sheila, N.B.
- 78537 Mar. 20—Approving issue and sale to Bell Telephone Co. employees by the company of shares of its capital stock.
- 78538 Mar. 20—Requiring that no train shall pass over the C.P.R. crossing of Victoria Street, Tweed, Ont., at a greater speed than ten miles an hour, etc.
- 78539 Mar. 20—Approving operation of C.N.R. trains over siding of the Ford Motor Co. of Canada, Ltd., near Oakville, Ont.
- 78540 Mar. 20—Authorizing Department of Roads for Province of Quebec, to construct Cote de Liesse Road across the C.N.R. by means of a subway, Dorval, Que.
- 78541 Mar. 20—Amending Order No. 78228, dated Feb. 5, 1952, *re* application of Department of Highways for Alberta *re* construction of Highway No. 1 across the C.P.R. by means of a bridge at mileage 3.78 Brooks Subdivision.
- 78542 Mar. 20—Authorizing the Quebec Department of Roads to re-locate the highway across the C.P.R. Parish of St. Jerome, Quebec.
- 78543 Mar. 20—Approving proposed location of pipe lines of Canadian Gulf Oil Co., near tracks of C.N.R. at Big Valley, Sask.
- 78544 Mar. 20—Approving proposed location of storage tanks, etc. of Imperial Oil Ltd. near tracks of C.P.R. at Pangman, Sask.
- 78545 Mar. 20—Permitting the removal of slow order at C.P.R. crossing of Dufferin Street, Toronto, Ont.
- 78546 Mar. 20—Authorizing the Alberta Department of Highways to construct the highway across the Northern Alberta Rly. Co. between Secs. 17 and 18-78-R1-W6M., Alberta.
- 78547 Mar. 20—Authorizing The Bell Telephone Co. to construct its lines of telephones along certain highways and streets in Municipality of Tring Junction, Quebec.
- 78548 Mar. 22—Authorizing the C.N.R. to abandon the operation of their Renfrew Subdivision between Whitney and Cache Lake and portion of Algonquin Subdivision between Cache Lake and Algonquin Park, Ontario.
- 78549 Mar. 22—Approving operation of C.N.R. trains over industrial tracks serving Frigidaire Products Canada, Ltd., and Canadian Johns Manville, Township of Scarborough, Ontario.
- 78550 Mar. 22—Approving proposed location of storage tanks, etc., of the British Columbia Power Commission at Houston, B.C.
- 78551 Mar. 22—Permitting the removal of slow order at the C.P.R. crossing near station at Didsbury, Alta.
- 78552 Mar. 22—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Tisdale Subdivision, Province of Saskatchewan.
- 78553 Mar. 22—Authorizing issuance of water licence to Upper Lakes and St. Lawrence Transportation Co. Ltd.
- 78554 Mar. 22—Authorizing the C.N.R. to operate under the bridge east of Rideau Canal between Sparks Street and Laurier Avenue, Ottawa, Ont.
- 78555 Mar. 22—Authorizing the C.N.R. to construct a bridge at mileage 14.8 Dorion Subdivision, Ontario.

- 78556 Mar. 22—Approving proposed location of storage tanks, etc., of Harry Rosen Fuel Supply near C.P.R. tracks at Kingston, Ont.
- 78557 Mar. 22—Authorizing the Alberta Department of Highways to construct highway across C.N.R. tracks at mileage 76·78 Brazeau Subdivision, Alberta.
- 78558 Mar. 22—Authorizing issuance of licence to transport goods by water to Abitibi Navigation Co. Ltd.
- 78559 Mar. 22—Approving plan submitted to the C.N.R. by Western Leaseholds Ltd., showing the location of crude oil loading facilities at Munson, Alta.
- 78560 Mar. 28—Extending time for installing of protection at C.N.R. and C.P.R. crossings near Current River, Ont.
- 78561 Mar. 24—Permitting the removal of slow order at C.P.R. crossing north of station at Sutton, Que.
- 78562 Mar. 24—Restricting the speed of trains over C.N.R. crossing of Birmingham Street, Hamilton, Ont.
- 78563 Mar. 24—Authorizing the Department of Public Works for Province of British Columbia to construct the highway across the Northern Alberta Rlys. Co. at Tupper, B.C.
- 78564 Mar. 24—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Minnedosa Subdivision, Province of Manitoba.
- 78565 Mar. 24—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Wishart Subdivision, Province of Saskatchewan.
- 78566 Mar. 24—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Sutherland Subdivision, Province of Saskatchewan.
- 78567 Mar. 24—Relieving the C.P.R. from maintaining cattle guards at certain mileages on its Alida Subdivision, Province of Manitoba.
- 78568 Mar. 24—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Keewatin Subdivision, Province of Manitoba.
- 78569 Mar. 24—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its White Fox Subdivision, Province of Saskatchewan.
- 78570 Mar. 24—Amending Order No. 78474, dated March 7, 1952, in the matter of application of City of Sarnia for re-location of the signals at the crossing of the C.N.R. and Vidal Street, Sarnia, Ont.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, May 1, 1952

No. 3

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

OTTAWA, April 16, 1952.

CIRCULAR No. 272

File No. 45464-1—Reduction in freight rates between points in Eastern Canada and points in Western Canada, pursuant to Section 18, Chapter 22, 15-16 George VI.

The aforesaid Act provides:

"18. (1) Subject to the provisions of this section, the Minister of Finance may, when authorized by the Governor in Council pay out of the Consolidated Revenue Fund:

"(a) to the Canadian Pacific Railway Company an amount equal to the annual cost of maintaining the trackage between Sudbury and Fort William on its transcontinental line of railway, and

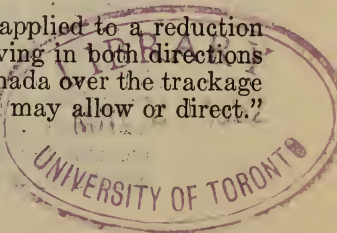
"(b) to the Canadian National Railway Company an amount equal to the annual cost of maintaining trackage corresponding in extent to the trackage mentioned in paragraph (a) between Capreol and Fort William and between Cochrane and Armstrong on the transcontinental lines of Canadian National Railways.

(2) The Board of Transport Commissioners for Canada shall determine the annual cost of maintaining the trackage for which payment may be made under this section and shall fix the extent of such trackage in respect of each company.

(3) The amounts paid under subsection one shall not in any year exceed seven million dollars in the aggregate.

(4) When the cost of maintenance of the trackage on the lines of railway specified in subsection one exceeds in any year the sum of seven million dollars, the payments authorized by subsection one shall be apportioned between the companies according to the amounts expended by each company on the maintenance of its trackage.

(5) The amounts paid under subsection one shall be applied to a reduction in the relative level of rates applying on freight traffic moving in both directions between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the Board may allow or direct."



The Board has had under consideration the fixing of the payment contemplated by the Act, and the application of such payment to a reduction in certain freight rates on traffic moving over such trackage.

The Board recognized that numerous difficulties might arise in the carrying out of the terms of the Act, and held a hearing to obtain the views of interested parties. The views thus obtained justify the Board proceeding with the administration of the statute on an interim basis pending further study and possibly some later amendments.

The Board has concluded that the aggregate cost of maintaining the stipulated trackage of the Canadian Pacific Railway Company and the Canadian National Railways during the year 1952 will exceed the sum of seven million dollars; therefore the aggregate payment to be made to both railways will be the maximum of seven million dollars stipulated by the Act.

After having carefully weighed all submissions made to it, the Board has determined that the following procedure shall be adopted in fixing a reduction in freight rates as contemplated by the Act:

1. That a reduction in freight rates as hereinafter stated shall be applied to all traffic other than the following: Grain and grain products; Coal from Alberta & Eastern British Columbia to Ontario that is subject to subsidized freight rates; Competitive traffic designated as such in the railways' tariffs; international traffic between Canada and the United States or to or from other countries via the United States; traffic moving between United States points passing through Canada; Export and Import traffic to or from Canadian ports not charged domestic rates; and traffic governed by Agreed Charges.
2. That a reduction to be applied in respect of the traffic stated in No. 1 shall apply to the line haul movement of all traffic between points in Eastern Canada and points in Western Canada EXCEPT, traffic having both its origin and destination, or originating or terminating, at points situated on the lines of railway as follows:
 - i. Between, but not including, Sudbury to Port Arthur-Fort William, Ontario, on the Canadian Pacific Railway Company:
 - ii. Between, but not including, Capreol-Armstrong, Cochrane-Armstrong, Cochrane-Port Arthur-Fort William, and Capreol-Port Arthur-Fort William, Ontario, on the Canadian National Railways.
3. That subject to paragraphs numbered 1 and 2 hereof, carload and less than carload freight rates, hereinafter termed "basic" rates, shall be reduced effective May 1, 1952, by the aggregate of the following:
 - i. 2.53 per cent of the basic rate:
 - ii. 5.8 cents per 100 lbs.
4. That the reduction in rates directed by paragraph numbered 3 shall be provided for in a master tariff or blanket supplement or such other method as the Board may from time to time approve or direct. Contrary provisions of Tariff Circular No. 1 are hereby waived. Fractions of rates, so reduced, less than .5 cents to be dropped, and .5 cents or over to be made next whole cent.
5. That the reduction so directed shall not affect or prejudice such adjustment of basic rates as may be necessary from time to time, but such reduction shall apply to a revised basic rate in the same manner as it had been applied prior to such revision; provided, however, that on any general revision of basic rates the reduction specified under paragraph numbered 3 will be subject to revision by the Board.

6. That such reduction as is herein directed shall be maintained in effect until further direction of the Board.

An Order will issue to this effect.

By Order of the Board,

E. R. HOPKINS,
Secretary.

ORDER No. 78767

In the matter of reduction in freight rates between points in Eastern Canada and points in Western Canada pursuant to Section 18 of Chapter 22 of the Statutes of Canada 15-16 George VI:

File No. 45464-1

WEDNESDAY, the 16th day of April, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon hearing the representations which were made by interested parties as to the application of subsection 5 of Section 18 of Chapter 22 of the Statutes of Canada 15-16 George VI at a sitting of the Board in Ottawa on March 17, 1952, in the presence of Counsel for and representatives of Canadian National Railways, Canadian Pacific Railway Company, Canada Steamship Lines Limited, the Provinces of Saskatchewan, Manitoba, British Columbia and Alberta, Maritimes Transportation Commission, Chambers of Commerce of Fort William and Port Arthur, City of Edmonton and Edmonton Chamber of Commerce, City of Winnipeg and Winnipeg Chamber of Commerce and Algoma Steel Corporation, and upon consideration of the matter, the Board having issued its Circular No. 272 dated the 16th day of April, 1952—

It is ordered that Canadian National Railway Company and Canadian Pacific Railway Company be, and they are hereby, required to make and maintain a reduction in freight rates in accordance with the Board's Circular No. 272 dated the 16th day of April, 1952, the reduction to be effective the 1st day of May, 1952.

JOHN D. KEARNEY,
Chief Commissioner.

OTTAWA, March 27, 1952.

CIRCULAR 271

File No. 27214-20—Protection installed in accordance with General Orders 607, 676 and 680.

When installation of crossing protection is to be made under an Order of the Board in accordance with General Orders Nos. 607, 676 and 680, detailed location plans shall be submitted to the authority having jurisdiction over the highway for its approval as to location of the protection in relation to the highway and railway before such plans are submitted to the Board for approval. The plans shall show the distance in feet from the clearance of the protective device to the nearest edge of the travelled portion of the highway and to the nearest track.

By Order of the Board,

E. R. HOPKINS,
Secretary.

ORDER No. 78699

In the matter of the application of the British Columbia Electric Railway Company, Limited, hereinafter called the "Applicant", for approval of its Standard Passenger tariff C.T.C. No. 50 applying between stations on The Vancouver, Fraser Valley & Southern Railway Company and The Vancouver and Lulu Island Railway Company:

File No. 21404

SATURDAY, the 5th day of April, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the Standard Passenger Tariff of the Applicant, C.T.C. No. 50, on file with the Board under file No. 21404, be, and it is hereby, approved, with the resulting fares being subject to complaint and investigation as provided by the Railway Act.

2. That the said tariff may be made effective April 6, 1952, upon three days' notice.

3. That the said tariff shall be published in at least two consecutive weekly issues of the *Canada Gazette* preceded by the following notice:

"The British Columbia Electric Railway Company, Limited, pursuant to Section 334 of the Railway Act, has filed for the approval of the Board of Transport Commissioners for Canada, tariff C.T.C. No. 50, standard passenger mileage fares applying over the lines of The Vancouver and Lulu Island Railway Company and The Vancouver, Fraser Valley and Southern Railway Company, which has been approved by Order of the Board No. 78699, dated April 5, 1952, to be effective April 6, 1952. The provisions of the tariff are as follows:"

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78765

In the matter of the application of Yankcanuck Steamships Limited for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-48

WEDNESDAY, the 16th day of April, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 258 be issued to Yankcanuck Steamships Limited licensing for the period of one year commencing January 15, 1952, the following ships to transport iron and steel products consisting of Bars, Billets or Slabs, by water between all ports and places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Manzzutti</i>	145462	1528
<i>Mancox</i>	145465	1550

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 78571 Mar. 24—Permitting the removal of slow order at C.N.R. crossing west of Finchley, Ontario.
- 78572 Mar. 25—Approving The British Yukon Rly. Co. Supplement No. 4 to Northern Freight Class. No. 7.
- 78573 Mar. 25—Authorizing the Quebec Department of Roads to re-locate and widen Highway No. 41 across the C.P.R. at mileage 1·07 Berthierville Subdivision.
- 78574 Mar. 25—Permitting the removal of slow order at C.P.R. crossing east of station at Dinorwic, Ontario.
- 78575 Mar. 25—Approving plan showing flashing light signals as re-located at crossing of Church Ave. and the C.P.R., Fairville, N.B.
- 78576 Mar. 25—Approving plan showing protection as installed at crossing of the C.P.R. and Wicksteed Ave., Leaside, Ont.
- 78577 Mar. 27—Authorizing the C.N.R. to construct a bridge over the Churchill River, South Branch, Manitoba.
- 78578 Mar. 25—Authorizing the C.N.R. to construct a bridge over the Churchill River, North Branch, Manitoba.
- 78579 Mar. 25—Authorizing the C.N.R. to construct a bridge over the Churchill River, Centre Channel, Manitoba.
- 78580 Mar. 25—Authorizing the Dominion Atlantic Rly. Co. to construct a private siding to serve Minas Basin Pulp & Power Co. Ltd., Hantsport, N.S.
- 78581 Mar. 25—Requiring the C.N.R. to install protection at second public crossing north of Hyde Park, Ont.
- 78582 Mar. 25—Requiring the C.P.R. to install protection at its crossing of highway at mileage 54·41 Peterborough Subdivision, Ontario.
- 78583 Mar. 25—Requiring the C.P.R. to install protection at its crossing of Regent St., Sudbury, Ont.
- 78584 Mar. 25—Authorizing the Saskatchewan Department of Highways to re-open the road allowance at mileage 43·8 of the C.P.R. Swift Current Subdivision.
- 78585 Mar. 25—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Belmont Station, N.S.
- 78586 Mar. 25—Permitting the removal of slow order at T.H. & B. Rly. Co. crossing of Cochrane Road, Hamilton, Ont.
- 78587 Mar. 25—Authorizing Interprovincial Pipe Line Co. to carry a second line of pipe in close proximity to present pipe line as described in Schedule attached to Order.
- 78588 Mar. 25—Authorizing the Canadian Northern Railway Co. to construct a railway track across 22nd Avenue and First Street East, Calgary, Alta.
- 78589 Mar. 25—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Glenboro Subdivision, Province of Manitoba.
- 78590 Mar. 25—Approving operation of C.N.R. trains along five private industrial sidings of the New Brunswick International Paper Co., Dalhousie, N.B.
- 78591 Mar. 25—Authorizing the C.N.R. to reconstruct the bridge over Serpentine Creek, mileage 110·7 Albreda Subdivision, British Columbia.
- 78592 Mar. 25—Approving proposed location of storage tank of North Star Oil Ltd., near C.N.R. tracks at Mayerthorpe, Alta.
- 78593 Mar. 25—Authorizing the C.P.R. to operate the railway bridge over the irrigation canal at mileage 88·3 Taber Subdivision, Alberta.
- 78594 Mar. 26—Permitting the removal of slow order at the C.P.R. crossing 2½ miles west of Woodstock, Ont.
- 78595 Mar. 26—Authorizing the Canadian Northern Rly. Co. to construct between 103rd and 104th Avenues, Edmonton, Alberta, an additional railway track.
- 78596 Mar. 26—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Melfort Subdivision, Saskatchewan.
- 78597 Mar. 26—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Prince Albert Subdivision, Province of Saskatchewan.
- 78598 Mar. 26—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Estevan Subdivision, Province of Saskatchewan.
- 78599 Mar. 26—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Redford Subdivision, Province of Saskatchewan.
- 78600 Mar. 27—Authorizing the R.M. of the Gap No. 39, Province of Saskatchewan, to re-align the road allowance across the C.N.R. at mileage 13·7 Bengough Subdivision, Saskatchewan.
- 78601 Mar. 27—Amending Order No. 78460, dated March 5, 1952, *re* application of Northern Transportation Co. (1947) Ltd. for a licence for water transportation.

- 78602 Mar. 27—Authorizing the Department of Public Works for Province of British Columbia to construct highway across the C.P.R. near Annable, B.C.
- 78603 Mar. 27—Authorizing the C.P.R. to operate the railway bridge over the irrigation canal at mileage 95.61 Stirling Subdivision, Province of Alberta.
- 78604 Mar. 27—Approving N.S. & T. Rly. Co. Standard Passenger Tariff C.T.C. No. 627.
- 78605 Mar. 27—Approving C.P.R. Tariff C.T.C. No. E. 5189.
- 78606 Mar. 27—Approving C.P.R. plan showing standard timber highway bridge designed to carry a twenty ton truck, etc.
- 78607 Mar. 28—Permitting the removal of slow order at C.P.R. crossing east of Thamesford, Ontario.
- 78608 Mar. 28—Permitting the removal of slow order at C.N.R. crossing just east of station at Tecumseh, Ont.
- 78609 Mar. 28—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Dunelm Subdivision, Saskatchewan.
- 78610 Mar. 28—Relieving the C.P.R. from maintaining cattle guards at highway crossings on its Cutknife Subdivision, Province of Saskatchewan.
- 78611 Mar. 28—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Furness Subdivision, Province of Alberta.
- 78612 Mar. 28—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Carberry Subdivision, Province of Manitoba.
- 78613 Mar. 28—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Big Gully Subdivision, Province of Saskatchewan.
- 78614 Mar. 28—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Lloydminster Subdivision, Saskatchewan.
- 78615 Mar. 28—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Reston Subdivision, Province of Saskatchewan.
- 78616 Mar. 28—Permitting the removal of slow order at C.P.R. crossing near Thamesville, Ontario.
- 78617 Mar. 28—Restricting the speed of trains over C.N.R. crossing of John Street, New Glasgow, N.S.
- 78618 Mar. 28—Restricting the speed of trains over C.N.R. crossing of Lacroix Street, Chatham, Ont.
- 78619 Mar. 28—Authorizing the Department of Public Works for Province of British Columbia to construct highway across the C.P.R. at mileage 40.65 Okanagan Subdivision.
- 78620 Mar. 28—Authorizing issuance of Water Licence to McInnes Products Corp. Ltd., Edmonton, Alta.
- 78621 Mar. 28—Restricting the speed of trains over C.N.R. crossing near station at West Port William, Ont.
- 78622 Mar. 28—Permitting the removal of slow order at C.N.R. crossing first north of Chauvigny Train Order Board Town of Jonquiere, Que.
- 78623 Mar. 29—Approving Service Station contract between The Bell Telephone Co. and the Marsboro Telephone Association.
- 78624 Mar. 29—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Wynyard Subdivision, Province of Saskatchewan.
- 78625 Mar. 29—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Kelfield Subdivision, Province of Saskatchewan.
- 78626 Mar. 29—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Lomond Subdivision, Province of Alberta.
- 78627 Mar. 29—Approving Supplements to Traffic Agreement between The Bell Telephone Co. and Le Telephone Somerset.
- 78628 Mar. 29—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Shaunavon Subdivision, Province of Saskatchewan.
- 78629 Mar. 29—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Kerrobert Subdivision, Province of Saskatchewan.
- 78630 Mar. 29—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Macklin Subdivision, Province of Saskatchewan.
- 78631 Mar. 29—Approving Supplement to Service Station Contract between the Bell Telephone Co. and the Geneva Rural Telephone Association.
- 78632 Mar. 29—Approving Supplement to Service Station Contract between The Bell Telephone Co. and the Lachute Rural Telephone Association.
- 78633 Mar. 29—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Telephone de Disraeli.
- 78634 Mar. 29—Approving Appendix to Traffic Agreement between The Bell Telephone and La Cie de Telephone Soulanges, Limitee.
- 78635 Mar. 29—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Telephone de Kamouraska.

- 78636 Mar. 29—Approving Supplements to Traffic Agreements between The Bell Telephone Co. and La Compagnie de Telephone de Stanfold.
- 78637 Mar. 29—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and the Falkirk Telephone System.
- 78638 Mar. 20—Permitting the removal of slow order at C.N.R. crossing near station at Gormley, Ont.
- 78639 Mar. 29—Permitting the removal of slow order at C.N.R. crossing east of station at Ituna, Sask.
- 78640 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Aldersyde Subdivision, Province of Alberta.
- 78641 Mar. 31—Authorizing the Northern Alberta Rlys. Co. to construct a timber trestle over Dawson Creek, Province of British Columbia.
- 78642 Mar. 31—Approving the proposed location of storage tanks of C.N.R. near their tracks at North Sydney, N.S.
- 78643 Mar. 31—Authorizing the C.P.R. to discontinue operation of mixed trains Nos. 592 and 593 between Soulanges and Cornwall, Ont.
- 78644 Mar. 31—Amending Order No. 76811, dated June 20, 1951, *re* plan submitted to Northern Alberta Rlys. Co. by The British American Oil Co. Ltd. showing location of crude oil facilities at Bluesky, Alta.
- 78645 Mar. 31—Permitting the removal of slow order at C.P.R. crossing of Pottery Road, Greater Toronto, Ont.
- 78646 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Hardisty Subdivision, Province of Saskatchewan.
- 78647 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Neudorf Subdivision, Province of Saskatchewan.
- 78648 Mar. 31—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Asquith Subdivision, Province of Saskatchewan.
- 78649 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Whitkow Subdivision, Province of Saskatchewan.
- 78650 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Shamrock Subdivision, Province of Saskatchewan.
- 78651 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Fife Lake Subdivision, Province of Saskatchewan.
- 78652 Mar. 31—Approving certain tariffs filed by The Bell Telephone Co. with the Board.
- 78653 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its McMorran Subdivision, Province of Saskatchewan.
- 78654 Mar. 31—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Crownsnest Subdivision, Province of Alberta.
- 78655 Mar. 31—Permitting the removal of slow order at C.N.R. crossing east of station at McGivney, N.B.
- 78656 Mar. 31—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.N.R. at Ashern, Man.
- 78657 Mar. 31—Approving certain tariffs filed with the Board by British Columbia Telephone Co.
- 78658 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Turin Subdivision, Province of Alberta.
- 78659 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Gretna Subdivision, Province of Manitoba.
- 78660 Mar. 31—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Alberta Central Subdivision, Province of Alberta.
- 78661 Mar. 31—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Swift Current Subdivision, Province of Saskatchewan.
- 78662 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Assiniboia Subdivision, Province of Saskatchewan.
- 78663 Apr. 1—Approving certain revised Traffic Agreements with connecting telephone systems and The Bell Telephone Co.
- 78664 Apr. 1—Approving certain revised Traffic Agreements between The Bell Telephone Co. and certain connecting telephone systems.
- 78665 Apr. 1—Authorizing the C.N.R. to reconstruct the bridge over the Grand River, near Caledonia, Ont.
- 78666 Apr. 1—Permitting the removal of slow order at C.N.R. crossing south of station at Hanmer, Ont.
- 78667 Apr. 1—Authorizing the C.P.R. to construct a siding across South Railway St., Norden, Man.
- 78668 }
78669 }
78670 } Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings
78671 } on its Rosetown, Wilkie, Wood Mountain, Carman and Expanse Subdivisions,
78672 } Provinces of Ontario, Saskatchewan and Manitoba.
- 78673 Apr. 1—Restricting the speed of trains over C.P.R. crossing of Marie de l'Incarnation Street, City of Quebec, Que.

- 78674 }
 78675 }
 78676 }
 78677 }
 78678 } Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings
 78679 } 1—on its Lanigan, Matador, Snowflake, Colonsay, Sterling, Outlook, Indian Head,
 78680 } Stewart Valley, Portal and Bulyea subdivisions, Provinces of Manitoba,
 78681 } Saskatchewan and Alberta.
 78682 }
 78683 }
- 78684 Apr. 1—Authorizing the McColl-Frontenac Oil Co. Ltd. to lay a pipe line alongside
 the L. & P.S. Rly Co. at Port Stanley, Ont.
- 78685 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings
 on its Tyvan Subdivision, Province of Saskatchewan.
- 78686 Apr. 1—Relieving the C.P.R. from erecting cattle guards at mileage 5.5 East Side
 of its Bromhead Subdivision, Saskatchewan.
- 78687 Apr. 4—Authorizing the Interprovincial Pipe Line Co. to construct a second line
 across the Souris River, Province of Manitoba.
- 78688 Apr. 4—Authorizing the Interprovincial Pipe Line Co. to construct a second pipe
 line across the South Saskatchewan River, Province of Saskatchewan.
- 78689 Apr. 4—Approving plan showing changes in signal aspects at crossing of L.E. & N.
 Rly. and C.N.R. at Simcoe, Ont.
- 78690 Apr. 4—Authorizing the Hydro-Electric Power Commission of Ontario to construct
 an underground cable crossing under tracks of C.P.R., C.N.R. and The
 Toronto Terminals Rly. Co., City of Toronto, Ont.
- 78691 Apr. 4—Authorizing the City of Calgary, Alta., to construct a water pipe under
 tracks of C.P.R. at 4th Street West, Calgary, Alta.
- 78692 Apr. 4—Rescinding Order No. 77694 dated Nov. 8, 1951, *re* warehouse storage tanks,
 etc., of Imperial Oil Ltd. near tracks of Northern Alberta Rly. Co. at
 Woking, Alberta.
- 78693 Apr. 4—Approving plan showing changes in the signal aspects at crossing of C.P.R.
 and Adelaide St., City of London, Province of Ontario.
- 78694 Apr. 4—Extending time within which protection is to be installed at C.N.R. crossing
 of Alma St., Hebertville, Que.
- 78695 Apr. 4—Authorizing the City of Lachine to widen Sixth Avenue across the C.N.R.
 Lachine, Que.
- 78696 Apr. 4—Extending time for installation of protection at C.N.R. crossing of 116th
 Street, Edmonton, Alta.
- 78697 Apr. 4—Approving plan showing changes in the signal aspects at the interlocking
 at crossing of Richmond St. and the C.P.R. at London, Ont.
- 78698 Apr. 4—Authorizing the Qu'Appelle Long Lake & Saskatchewan Railroad and
 Steamboat Co. to construct an additional track along Lauriston St.,
 Saskatoon, Sask.
- 78699 Apr. 5—Approving Standard Passenger Tariff of the British Columbia Electric
 Railway Co. Ltd. No. C.T.C. 50.
- 78700 Apr. 5—Permitting the removal of slow order at C.P.R. crossing near station at
 Marwayne, Alta.
- 78701 Apr. 5—Permitting the removal of slow order at C.N.R. crossing near station at
 Barlow Junction, Province of Alberta.
- 78702 Apr. 5—Authorizing the Imperial Oil Ltd. to construct overhead structures carrying
 pipes over tracks of The Chesapeake & Ohio Rly. Co., at Sarnia, Ont.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, May 15, 1952

No. 4

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of Swift Canadian Company Limited for an Order, under Sections 33 and 325 of the Railway Act, disallowing certain tariffs of the Canadian National Railways and the Canadian Pacific Railway Company which limit the amount of absorption of National Harbours Board switching charges and the amount of absorption of Top Wharfage charges.

AND

In the matter of the application of The Maritimes Transportation Commission for an Order under Sections 314, 319 and 325 of the Railway Act directing the absorption of increased Top Wharfage charges by the Canadian National Railways, Canadian Pacific Railway Company and the Dominion Atlantic Railway.

File 30741-5

Before:

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*
Mr. HUGH WARDROPE, *Assistant Chief Commissioner.*
Mr. ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Appearances:

Mr. K. D. M. SPENCE, for the Canadian Pacific Railway Co.
Messrs. A. K. DYSART and A. H. HART, for the Canadian National Railways.
Messrs. C. H. DOOLITTLE and GEORGE PAUL, for Swift Canadian Company Limited.
Mr. KARL S. WRIGHT, for Canadian Carborondum Co. Ltd.
Messrs. RAND H. MATHESON, L. W. SIMMS and Col. S. W. BALCOMB, for the Maritimes Transportation Commission, on behalf of the Halifax and Saint John Boards of Trade.
Mr. H. A. MANN, for the Canadian Industrial Traffic League.
Mr. A. F. DOWNEY, for the Canadian Exporters Association.
Mr. W. J. MCCALLUM, for the Canadian Manufacturers Association.
Messrs. E. LORNE TRACEY and W. MACDOUGALL, for the Montreal Board of Trade.
Messrs. W. J. SMALLACOMBE and J. C. SULLIVAN, for the Canadian Millers Association.
Mr. F. J. FINLAY, for the National Harbours Board.

ORAL JUDGMENT

THE CHIEF COMMISSIONER:—Gentlemen, we have had the benefit of argument and presentation of this case during two days and I think that counsel who appeared in this case discharged their duties exceedingly well. I think Mr. Doolittle, who is a newcomer to this court, is to be congratulated on the able and facile way in which he put forward difficult propositions, which perhaps are new to him. At least what is new to him are the surroundings in this court and its proceedings. And Mr. Mann of the Canadian Industrial Traffic League almost qualified for the legal profession without the necessity of passing any examination. Of course, Mr. Rand Matheson, who also appeared for the applicants, as usual presented this case with great clarity.

My colleagues and I have had an opportunity to discuss this case and it seems to us that it reduces itself to two simple questions, and one is a legal question—a question of jurisdiction. A motion was made by the respondents stating that the court had no jurisdiction to order the railways to absorb the wharfage and switching charges of the National Harbours Board.

The Board is of the opinion that in view of the judgment of the Supreme Court of Canada in *Western Canada Flour Mills Ltd., et al. vs. Canadian Pacific and Canadian National Railway Companies*, reported in 38 C.R.C. 124 and the *James Richardson and Sons Ltd., et al. vs. C.N.R.* case in 39 C.R.C. page 33, we do not have jurisdiction to and could not in law make that order. This is one of the principal things asked for in the applications made by the applicants.

The second question involved is: Has a case of unjust discrimination or undue preference within the meaning of the Railway Act been made out? The Board has held on many occasions that to sustain an allegation of unjust discrimination or undue preference there must be evidence and proof of actual detriment resulting from the alleged unjust discrimination or undue preference. We do not think that such a case has been made out.

Mr. Dysart on behalf of the respondents made a motion for dismissal of the application on the ground that there was a lack of evidence in support of unjust discrimination and the Board is of the opinion that that motion must be sustained.

During the course of the hearing, as I mentioned before, reference was made to certain tariff provisions alleged to provide cartage service in lieu of harbour switching, and, without giving an interpretation on the specific tariff provisions which deal with this alternative service, it would seem to me that there may be considerable merit in the contention made by the applicants and it may form grounds for contesting a claim for switching charges. But as I said a moment ago, I do not think it is an issue that properly arises in this case, and although the applications made in this case are dismissed we will reserve any and all rights which the two applicants concerned might have to ask for an interpretation of the specific tariff provisions in respect of the alternation of cartage and switching.

I may say that both of my colleagues concur in the decisions we have now reached.

OTTAWA, April 4, 1952.

ORDER No. 78821

In the matter of the application of the Northern Transportation Company (1947) Limited, under Section 21 of The Transport Act, 1938, for approval of Standard Freight Tariff C.T.C. No. 19 covering tolls of licensed water carriers within the Mackenzie River watershed:

File No. 42082-32

FRIDAY, the 25th day of April, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Standard Freight Tariff C.T.C. No. 19 of the Northern Transportation Company (1947) Limited, on file with the Board under file No. 42082-32, be, and it is hereby, approved.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78822

In the matter of the application of the Yellowknife Transportation Company Limited, under Section 21 of the Transport Act, 1938, for approval of Standard Freight Tariff C.T.C. No. 10, on file with the Board under File No. 42082-30:

FRIDAY, the 25th day of April, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Standard Freight Tariff C.T.C. No. 10 of the Yellowknife Transportation Company Limited, on file with the Board under file No. 42082-30, be, and it is hereby, approved.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78851

In the matter of the application of the Canadian Freight Association, dated April 21, 1952, for approval of Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) No. 46:

File No. 40994-35

WEDNESDAY, the 30th day of April, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) No. 46, which amends Condition 1 (c) of the original agreement so as to permit The British American Oil Company Limited, as a temporary measure, to ship petroleum products from its marine terminal at Fort William to Winnipeg at the same rate as charged under the said agreement from Moose Jaw to Winnipeg, be, and it is hereby, approved; and that the date from which the said Supplement No. 1 shall become operative is hereby fixed as May 1, 1952.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78865

In the matter of the application of McInnes Products Corporation Limited, under Section 21 of the Transport Act, for approval of Standard Freight Tariff C.T.C. No. 8, on file with the Board under file No. 42082-29:

THURSDAY, the 1st day of May, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Freight Tariff C.T.C. No. 8 of McInnes Products Corporation Limited, on file with the Board under file No. 42082-29, be, and it is hereby, approved.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 78890

In the matter of the application of the British Yukon Navigation Company, Limited, hereinafter called the "Applicant Company", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076·42

TUESDAY, the 6th day of May, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 259 be issued to the Applicant licensing for the period of one year commencing January 8, 1952, the following ships to transport passengers and/or goods by water between all ports and places accessible by navigation to the ships listed in the said application in respect of the Yukon River and its tributary waters within the Yukon territory:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Keno</i>	116,618	613·049
<i>Casca</i>	170,613	1300·27
<i>Tutshi</i>	138,695	1040·51
<i>Klondike</i>	156,744	1362·504

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
MARCH, 1952

Railway Accidents.	216	Killed 10	Injured 210
Level Crossing Accidents.....	29	Killed 7	Injured 33
Totals.....	245	Killed 17	Injured 243
		<i>Killed</i>	<i>Injured</i>
Passengers.		1	35
Employees.		5	168
Others.		11	40
Totals.....		17	243

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	—	1	Pedestrian walked onto track in front of approaching train and was struck.
1	2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. 17832.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.

QUEBEC

1	1	—	Caterpillar tractor drove onto crossing in front of approaching train and was struck.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 318-105.
1	—	1	Auto-bus ran into side of train. Licence: Ont. 9798-C.
1	—	2	Automobile ran into side of standing train. Licence: Que. T-8948.

ONTARIO

1	—	2	Automobile ran into side of train. Licence: Ont. 7-Z-911.
1	—	1	Auto truck ran into side of train. Licence: Ont. 65-833.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 655-F-7.
1	—	1	Automobile ran into side of train. Licence: Ont. V-9428.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Automobile ran into side of train. Licence: Ont. 584-PJ.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8-S-68.
1	—	1	Tractor trailer drove onto crossing in front of approaching train and was struck. Licence: Ont. C-48983.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 16618.
1	1	3	Automobile ran into side of train. Licence: Ont. 3-R-112.
1	—	1	Automobile ran into side of train. Licence: Ont. DJ-949.

MANITOBA

1	1	1	Auto truck ran into side of train. Licence: Man. PSV-908.
1	—	2	Automobile ran into side of train. Licence not given.

ALBERTA

1	—	1	Auto truck ran into side of train. Licence: Alta. CV-22570.
1	—	1	Automobile ran into side of standing train. Licence: Alta. 16092.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 86160.
1	—	1	Auto truck ran into side of train. Licence: Alta. F-74637.
1	—	2	Automobile ran into side of train. Licence: Alta. 6633.

BRITISH COLUMBIA

Accidents		K.	I.	
1	—	1		Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1		Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.

Of the 29 accidents at highway crossings, 24 occurred at unprotected crossings, and 5 at protected crossings. Thirteen of the accidents occurred after sunrise and sixteen after sunset.

OTTAWA, Ontario, April 30, 1952.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 78703 Apr. 5—Authorizing the C.P.R. to make changes to existing block signals at the junction of the Adirondack, Sherbrooke and Newport Subdivisions, at Brookport, Que.
- 78704 Apr. 4—Authorizing the C.P.R. to install an automatic block signal in the eastward track near Kennay, Man.
- 78705 Apr. 5—Authorizing the C.N.R. to reconstruct the dock facilities at Kelowna, B.C.
- 78706 Apr. 5—Authorizing the C.N.R. to construct a spur across Back River Road in the Town of Montreal East, Que.
- 78707 Apr. 5—Approving proposed location of storage tank, etc., of The Bell Telephone Co. near C.N.R. tracks at London, Ont.
- 78708 Apr. 5—Restricting the speed of trains over the C.P.R. crossing west of station at Arcola, Sask.
- 78709 Apr. 5—Authorizing the C.N.R. to remove and trim certain trees at crossing near St. Felicien, Que.
- 78710 Apr. 5—Extending time for installation of protection at C.P.R. crossing of Highway No. 2 at mileage 4.4 McLeod Subdivision, Alberta.
- 78711 Apr. 5—Approving proposed location of storage tanks of Imperial Oil Ltd., near tracks of C.P.R. at Halbrite, Sask.
- 78712 Apr. 5—Approving plan showing changes in signal protection at interlocking plant at crossing of the L.E. & N. Rly. Co., at Brantford, Ont.
- 78713 Apr. 5—Approving plan showing changes in the track circuit for protection installed at crossing of the C.N.R. and Victoria Road, Guelph, Ont.
- 78714 Apr. 5—Authorizing the C.N.R. to reconstruct the abutments of the La Tortue River East Bridge, P.Q.
- 78715 Apr. 5—Authorizing the Anglo Newfoundland Development Co. Ltd., to construct its railway across the C.N.R. in the Province of Newfoundland at mileage 268.5 Bishop's Falls Subdivision.
- 78716 Apr. 5—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 78717 Apr. 7—Permitting the removal of slow order at C.P.R. crossing of Main Street, Bedford, Que.
- 78718 Apr. 7—Extending time for installation of signals at C.P.R. crossing of St. Thomas Street, Joliette, Que.
- 78719 Apr. 7—Authorizing the Department of Public Works of Province of British Columbia, to construct the highway across the C.P.R. near Olson, B.C.
- 78720 Apr. 7—Permitting the removal of slow order at C.N.R. crossing of Ottawa Street, Hamilton, Ont.
- 78721 Apr. 7—Permitting the removal of slow order at C.P.R. crossing near passenger shelter at Headingley, Man.
- 78722 Apr. 7—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Rapid City Subdivision, Province of Manitoba.
- 78723 Apr. 7—Authorizing the C.P.R. to operate over subway at Lorne St., Sudbury, Ont.
- 78724 Apr. 7—Authorizing the Grand Trunk Pacific Branch Lines Co., to construct an additional railway track across 17th Street and Frances Street, Calgary, Alta.
- 78725 Apr. 7—Authorizing the C.N.R. to operate bridge over Coldwater River, Ontario.
- 78726 Apr. 7—Approving operation of Esquimalt & Nanaimo Rly. Co. trains over private siding serving the British Columbia Electric Co. Ltd., Victoria, B.C.
- 78727 Apr. 7—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Lenore Subdivision, Manitoba.
- 78728 Apr. 7—Permitting the removal of slow order at C.P.R. crossing near station at Coniston, Ont.
- 78729 Apr. 7—Authorizing the Napierville Junction Rly. Co. to close its station at St. Edouard, Que.
- 78730 Apr. 7—Permitting the removal of slow order at C.N.R. crossing east of station at St. Tite, Que.
- 78731 Apr. 8—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The Glengarry Telephone Co. Ltd.
- 78732 Apr. 8—Restricting the speed of trains over C.P.R. crossing near station at St. Jerome, Que.
- 78733 Apr. 8—Authorizing the Grand Trunk Pacific Railway Co. to construct an additional track across the public road at McBride, B.C.
- 78734 Apr. 9—Approving proposed location of storage tank of C.N.R. near their tracks at Sarnia, Ont.
- 78735 Apr. 9—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Sections 3 and 9.
- 78736 Apr. 9—Rescinding Order No. 78276 dated Feb. 9, 1952, *re* approval of plan showing location of crude oil loading facilities of Imperial Oil Ltd. at Hay Lake, Alta

- 78737 Apr. 9—Authorizing the Canadian Chemical Co. Ltd., to construct a power and telephone duct under the pipe line of Interprovincial Pipe Line Co. near Clover Bar, Alta.
- 78738 Apr. 9—Approving proposed location of storage tanks, etc., of C.N.R. near their tracks at Stellarton, N.S.
- 78739 Apr. 9—Permitting the removal of slow order at C.N.R. crossing east of Stamford, Ontario.
- 78740 Apr. 9—Approving proposed location of storage tank, etc., of Kennebec Propane Gas Limited near tracks of C.N.R. at St. Romuald, Que.
- 78741 Apr. 9—Approving location of storage tank, etc., of C.P.R. near its tracks at Swift Current, Sask.
- 78742 Apr. 9—Restricting speed of trains of Niagara, St. Catharines and Toronto Railway at crossing of Page St., St. Catharines, Ont.
- 78743 Apr. 9—Amending Order No. 77820, dated Nov. 28, 1951, *re* protection at C.N.R. crossing of Muskoka Road, Gravenhurst, Ont.
- 78744 } Apr. 9—Relieving the C.P.R. from maintaining cattle guards at certain highway
78745 } crossings on its Glenboro and Alida Subdivisions, provinces of Manitoba and Saskatchewan.
- 78746 Apr. 9—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Tuque Telephone Company.
- 78747 Apr. 10—Restricting the speed of trains at C.N.R. crossing of 93rd Street, Edmonton, Alberta.
- 78748 Apr. 10—Permitting the removal of slow order at C.N.R. crossing east of station at Mundare, Alta.
- 78749 Apr. 10—Permitting the removal of slow order at C.N.R. crossing near station at Canfield, Ont.
- 78750 Apr. 10—Approving Supplement No. 19 to Agreed Charge Tariff C.T.C. (AC) No. 11 (Canadian Freight Association).
- 78751 Apr. 10—Authorizing the Saskatchewan Department of Highways to widen Highway No. 2 across the C.N.R. at mileage 53.39 Saskatoon-Melfort Branch.
- 78752 Apr. 10—Permitting the removal of slow order at C.N.R. crossing near Exfrid, Ont.
- 78753 Apr. 10—Approving Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 44 (Canadian Freight Association).
- 78754 Apr. 12—Permitting the removal of slow order at C.N.R. crossing at Maitland, N.S.
- 78755 Apr. 15—Approving plan submitted to C.N.R. by the Chamberlain Oil & Gas Limited, showing location of crude oil loading facilities at mile 6.8 Camrose Subdivision, Alberta.
- 78756 Apr. 15—Authorizing the C.N.R. to construct their railway across a 12 ft. water pipe at mileage 36.76 Val d'Or Subdivision, Province of Quebec.
- 78757 Apr. 15—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Co. under Section 9.
- 78758 Apr. 15—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Co. under Section 9.
- 78759 Apr. 16—In the matter of applications of U.S. and Canadian carriers *re* tariffs filed with the Board covering traffic between points in Canada and points in the U.S.A. between points in the U.S.A. through Canada, import and export traffic between Canadian ports and stations in Canada, and on traffic to and from Newfoundland and the Islands of St. Pierre and Miquelon.
- 78760 Apr. 16—Permitting the removal of slow order at C.P.R. crossing north of Kealeys, Quebec.
- 78761 Apr. 16—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under Section 9.
- 78762 Apr. 16—Permitting the removal of slow order at C.N.R. crossing east of station at Evelyn, B.C.
- 78763 Apr. 16—Permitting the removal of slow order at C.N.R. crossing west of station at Garneau, Que.
- 78764 Apr. 15—Amending Order No. 75324 as amended by Order No. 78359 *re* application of City of Calgary, Alta., for an order authorizing the construction of 4th Street West under the C.P.R. by means of a subway.
- 78765 Apr. 16—Authorizing issuance of licence to Yankanuck Steamships Limited.
- 78766 Apr. 16—Approving plan showing location of the deviation in route of Canadian-Montana Pipe Line Co. pipe line in Sections 21 & 22-2-9-W4M, province of Alberta.
- 78767 Apr. 16—Requiring the C.N.R. and the C.P.R. to make and maintain a reduction in freight rates in accordance with Board's Circular No. 272 dated April 16, 1952, to be effective May 1, 1952.
- 78768 Apr. 16—Approving operation of the Northern Alberta Railways Company trains over private siding serving the Northern Transportation Co. Ltd. in the Town of McMurray, Alta.
- 78769 Apr. 16—Approving side clearance at loading platform adjacent to private siding of the Mindamar Metals Corp. Ltd. at St. Peters, N.S.

- 78770 Apr. 17—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Section 9.
- 78771 Apr. 17—Restricting the speed of trains over the C.P.R. crossing of Highway No. 8 at Gatineau, Que.
- 78772 Apr. 17—Approving operation of C.P.R. trains over private siding serving North American Cyanamid Ltd., Mount Royal, Que.
- 78773 Apr. 17—Authorizing the Quebec Department of Roads to re-align and widen the highway across the C.N.R. Township of Hemmingford, Que.
- 78774 Apr. 17—Approving tolls published in tariffs filed by the C.N.R. under Section 3 of the Maritime Freight Rates Act.
- 78775 Apr. 17—Approving signal changes between mileages 67.0 and 75.0 on the C.P.R. Heron Bay Subdivision, Ontario.
- 78776 Apr. 17—Approving certain signal changes on the C.P.R. between Heron Bay and Marathon, Ont.
- 78777 Apr. 17—Permitting the removal of slow order at C.P.R. crossing of 2nd Street East, Calgary, Alta.
- 78778 Apr. 17—Approving plan showing signals as installed at interlocking Quebec Street, London, Ontario. (C.P.R.)
- 78779 Apr. 18—Authorizing the C.N.R. to construct a service track across 11th Avenue and Lawrence Avenue, Downsview, Ont.
- 78780 Apr. 18—Authorizing the Town of Preston, Ont., to construct South Street across the Grand River Railway Co., Preston, Ont.
- 78781 Apr. 18—Extending time for installing protection at crossing west of station at Unionville, Ont.
- 78782 Apr. 18—Approving plan showing proposed changes to signals at interlocking plant at crossing of C.P.R. and C.N.R. at Brampton, Ont.
- 78783 Apr. 18—Authorizing the Northern Alberta Rlys. Co. to operate over the re-located portion of its Grande Prairie Subdivision, British Columbia.
- 78784 Apr. 19—Authorizing the C.N.R. to operate the railway bridge on the Barvue Mines Spur of their Amos Subdivision, province of Quebec.
- 78785 Apr. 19—Approving proposed location of storage tank, etc. of Canadian Oil Refineries Ltd., near The Chesapeake & Ohio Railway Company at Froomfield, Ont.
- 78786 Apr. 19—Approving proposed location of warehouse, etc., of Imperial Oil Limited, near tracks of C.P.R. at Shawville, Que.
- 78787 Apr. 19—Approving proposed location of storage tank, etc., of Imperial Oil Limited near tracks of C.P.R. at Hardisty, Alta.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, June 2, 1952

No. 5

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

REVIEW OF FINDINGS IN *Re* COMPLAINT OF WESTERN GROCERS LIMITED, et al. RATES ON CANNED GOODS BY WATER TO FORT WILLIAM AND PORT ARTHUR, ONTARIO.

File 42336

HEARD at Port Arthur, Ontario, March 25, 1952.

Appearances:

HAZEN HANSARD, Q.C., for Canada Steamship Lines Limited;
Lake Freight Association.
M. L. RAPOPORT, for Canned Foods Association.
H. W. WOODS, for Western Grocers Limited; Gateway Grocers Limited.
H. A. CHARNOCK, for Transportation Committee, Fort William and Port Arthur Chambers of Commerce.
W. H. SPOULE, for Merchants Distributors Limited.
ALFRED BATTERS, for Batters Cartage and Storage Co.
K. D. M. SPENCE, for Canadian Pacific Railway Co.
A. H. HART, for Canadian National Railways.

JUDGMENT ON REVIEW

WARDROPE, Assistant Chief Commissioner:

Arising out of our Judgment of June 23, 1951 (41 Judgments, Orders, Rules and Regulations, p. 186) was an application by the respondent carriers, i.e., the Canadian National Railways; Canadian Pacific Railway Company; Canada Steamship Lines Limited; Northern Navigation Company Limited; Northwest Steamships Limited; and the Lake Freight Association, for re-hearing and review of the previous decision.

The only points at issue in the said application are the findings (1) that the licensees had failed to provide reasonable and proper facilities for receiving and delivering local traffic at the Lakehead, (2) that charging tolls which included payment of top wharfage and railway switching at the Lakehead consequent upon failure to provide such facilities constituted unjust discrimination between localities, and (3) that furtherance rates applicable to traffic for storage in railway warehouses at the Lakehead were unjustly discriminatory in respect of traffic stored in other than railway warehouses thereat.

Included in our prior Judgment was also a finding that the specific carload rates on Canned Goods assailed in the original complaint, were not unreasonable

if the top wharfage and switching charges included therein were deducted therefrom. It may be noted, however, that the rate then dealt with had expired with November 30, 1950. The said rate was re-published at the commencement of the navigation season of 1951 and remained in effect, (subject to the differential adjustment made at the time the rail rates, and the joint rail-water rates, were increased in that year) until it also expired with November 30, 1951.

It should also be noted that, subsequent to the hearing of the instant matter, rates have been established for the 1952 season at a higher level than that prevailing in 1951. This action on the part of the carriers has caused certain parties hereto to protest to us the impropriety thereof during the pendency of these proceedings. We have been forced to inform such parties that any allegations as to unreasonableness in the 1952 rates is a matter which is not specifically before us in these proceedings.

Our finding with respect to facilities in the previous decision was predicated upon the ships docking at railway terminals where no facilities were provided for access by other than railway service. Traffic consigned to, or shipped from the Lakehead is thus forced to use railway facilities and the ship has no other means of effecting receipt or delivery of the traffic. It was stated in argument by Counsel for the Canadian National Railways that a limited access by highway vehicle was available for less than carload traffic at the Canadian National Railways dock at Port Arthur, but shippers representatives present expressed considerable doubt as to the suitability of such access to the public generally. Prior to rendering our previous decision we had satisfied ourselves, by investigations conducted by our own staff, that adequate facilities for receipt and delivery of local traffic directly to and from the dock by highway vehicles were lacking. We commented previously upon the chief purpose of the licensees' ships tying up at railway docks, namely, that the greater portion of traffic carried to and from the Lakehead originated at, or was destined to, interior points served by the railways west of the Lakehead.

Our previous Judgment has been carefully reviewed, and I have also considered the evidence and argument presented to us in the instant proceedings, but in my opinion the principle of the previous findings should be sustained.

Section 25 of The Transport Act 1938, cited in the previous Judgment, requires licensees to provide "reasonable and proper facilities for the receiving . . . and delivering of traffic". Our Judgment is assailed by the respondent carriers on the grounds that we have not specified what facilities are required, and it is asserted that it would require the licensees to acquire a dock at every point a ship may serve, and that a considerable burden would thus be imposed on licensees, particularly those having only one ship. Obviously our ruling does not so require. It is open to licensees to arrange for dock facilities by whatever means they may choose. The representative of the Chamber of Commerce of the Lakehead cities summed up the water carriers' position succinctly when he stated that the carrier was not compelled to build a dock but would have to arrange for such facility if it wanted to do business.

Considerable reliance was placed upon the length of time in which the all-water local Lakehead traffic has been handled through railway facilities. It appears, however, that it is only recently that the burden cast upon such traffic has become evident and that it does not remain unchallenged. It may be noted also that prior to the enactment of The Transport Act there was no regulatory control of the water carriers' actions, and further, that the spread between local and furtherance traffic was not so marked as it is now. The latter feature, upon which the initial complaint was predicated, has been disposed of in the prior Judgment and has not been reviewed herein.

We are compelled to take notice of the fact that the water carriers find it convenient and necessary to utilize railway dock facilities in the transfer of through traffic under conditions which do not impose on that traffic any of the

terminal charges made upon the local traffic. We have found that the water carrier is relieved of some terminal expense on the through traffic but not on the local traffic, and transfers the burden of its facility disability to such traffic without that traffic having any alternative means of receipt or delivery to or from the ship.

Witness Stock of the Canada Steamship Lines Limited testified at some length, and in detail, as to the practices obtaining at other ports served by his Company. In general such testimony disclosed that wharfage charges were included in the total rate charged and not by additional imposition. It was also stated that at certain private docks the owners thereof, and whose freight is being transported by the ships docking there, are reimbursed for the wharfage charges involved. These payments are set out in the licensees' tariffs on file with us. In general this absorption of wharfage charges occurs mainly at eastern ports.

This difference in treatment of eastern ports with that accorded the Lakehead constituted the basis for our finding of unjust discrimination between localities. We are asked to reverse this finding on the grounds that no evidence was presented to show any prejudice of the Lakehead by what is practiced elsewhere. In my opinion this would be placing a very narrow construction upon the prohibitions of the statute, and I consider the finding should be sustained inasmuch as the broader and more equitable concept involves consideration also of the rate structure of the water lines and therefore the reasonableness of the rates concerned.

To and from eastern ports traffic is carried by licensees at rates having a differential relationship with railway rates. These differentials are of long standing and represent a settled level at which the two types of carriers compete with each other. Similar differentials apply to and from the Lakehead but in that case the "all-water" rates are differentially under the joint rail and water route rates. These routes are operated as part of the railways joint rail and water services and the rates charged are differentially under the all-rail rates, hence the all-water rates are maintained at a level deemed to enable such carriers to obtain a share of the traffic. We have never passed upon the merits of these differentials and there is some doubt as to whether we are authorized to do so under the statutes we administer.

Between eastern ports the differentials have become slightly disrupted by the water lines applying the seventeen per cent increase which we authorized for temporary relief of the railways. On the other hand the Lakehead rates have been increased seventeen per cent plus the amounts necessary to maintain the differentials. In this respect it must be noted that we required the maintenance of joint rail-water differentials in our decisions on railway freight rate increases, but this requirement did not apply to the all-water carrier licensees under The Transport Act.

The effect of these adjustments in relation to the matter now before us, is that wharfage charges at eastern ports continue to be derived from the line haul rate which is relatively lower than that charged on Lakehead traffic because of the application of the seventeen per cent increase to the eastern movements, whereas the Lakehead traffic encounters a relatively higher increase in line haul rate and also the full wharfage charges, despite the fact that the measure of both rates is the relationship they bear to rail rates.

I am of the opinion that as the water carriers' rate structure is based upon this differential relationship the incidence of the terminal charges additionally imposed at the Lakehead must be considered in conjunction with the inadequacy of water carrier facilities at the Lakehead. For such carriers to provide what we believe are adequate facilities at some ports and to impose additional charges

where inadequate facilities prevail justifies our previous finding as to unjust discrimination between localities and further justifies a finding of unreasonableness.

While this case is primarily concerned with the rates charged on Canned Goods, it is obvious that the principles at issue must apply also to all other local traffic at the Lakehead. I so intimated it would during the hearing at Port Arthur on March 25, 1952.

The matter of railway switching at the Lakehead is ancillary to the matter of wharfage. There does not appear to be a precise parallel at eastern ports, but we did point out in our previous Judgment that the water lines at eastern ports set themselves out to receive from or deliver to points contiguous to the point at which the ship docks. There is also provision for the performance of cartage to or from firms having private sidings on the railways serving such points. This arrangement, of course, is an attempt to equalize a competitive position.

With water rates based differentially under rail, as above noted, the matter of competitive action with respect to private siding traffic is one for the carrier to deal with in its discretionary powers. It is reasonable to believe that if such a condition arose at the Lakehead appropriate action would be taken by the water carrier as it has done at other ports. However, we must take into consideration the fact that if private siding delivery is required for water traffic at the Lakehead, the matter of charging or absorbing switching charges is not one for determination here. It was estimated that the cost of cartage from the dock to the point of delivery would be ten cents per 100 lbs., but as the switching charge is 3½¢ per 100 lbs., the forced use of railway facilities for private siding traffic does not impose any hardship, hence I feel we should modify our previous finding to that extent.

The situation with respect to team track delivery is quite different. In such cases the traffic must assume the railway switching charge, where such is imposed, plus the cartage expense to or from the team track. In the absence of access to the dock by cartage I am of the opinion that the switching charge is a proper expense to be borne by the carrier and any rate which imposes such charge upon the traffic in addition to the line haul rate is unreasonable to that extent. Nothing has been presented to us to show that the cartage charge to or from the dock would be any less than to or from the team track.

I come now to the matter of storage at the Lakehead. In our previous Judgment we stated that both the "all-water" and "rail-water" carriers provide for the application of furtherance rates to traffic stored in railway warehouses and subsequently re-shipped by rail. We found that the application of furtherance rates to traffic stored in railway warehouses and the denial of such application to traffic stored in other warehouses and subsequently re-shipped by rail, constituted unjust discrimination and undue preference. The said finding was modified only to the extent that additional costs involved in delivery to or from the private warehouses were not included therein.

The position with respect to such storage is that the two railways, by their own tariffs, undertake to provide storage in consideration of the payment of the tariff rates therefor when the goods are intended for re-shipment to stations other than the Lakehead, and the charges to the Lakehead are prepaid. There is nothing in the said tariff to indicate the rate to be charged up to the storage point, but it is stated therein that if such traffic is delivered locally to the Lakehead, an additional charge is made for the storage and the "difference, if any, between the proportional and local rates from point of shipment to storage point, plus the wharfage and . . . switching charges". It may be thus inferred that storage in railway warehouses contemplates applying the proportional or "furtherance" rates in the first instance. That this is a correct inference is demonstrated by the tariff provisions applicable to the initial movement.

Insofar as the water carrier licensees are concerned it might be difficult to understand why they should be concerned with what takes place once the goods

are delivered by them to the railways at the Lakehead, if they merely charged a local rate to the Lakehead, but they set themselves out to apply their furtherance rates if the traffic is to be stored as described. Our finding was that by applying the furtherance rate to traffic for storage off their premises they commit an act of unjust discrimination against similar traffic for storage in other warehouses to which they do not extend the same level of rates.

Witness Stock for the licensees stated in evidence that it was not feasible to grant the furtherance rates on privately stored traffic as the inbound traffic could move over three steamship lines, whereas the outward movement would be via two railways, and that the identity of the movements could not be preserved. He also questioned whether the railways would refund the additional handling and terminal costs collected on the inbound movement to the private warehouse in order to adjust such charges to the furtherance basis.

I am of the opinion that this condition does not justify varying the finding we have made. Storage in transit is widely practised by the railways and, in general, such storage takes place off railway premises. Likewise such arrangements contemplate the maintenance of identity of the goods, where such identity is required. It would not be an insuperable task, in my opinion, to work out arrangements to safeguard the proper interests of the carriers.

Generally speaking the provision of storage in transit by the carriers is normally accomplished by charging the inward traffic the local rate to the storage point, and upon re-shipment, adjusting the charges to the balance of the through rate. In this case the position seems to be the reverse and creates certain complications.

We have found that furtherance or proportional rates are part of a total rate for the entire movement of the goods, and it should be clear that if storage in transit is to be accorded it should be accomplished in the normal and regular manner.

Merely because the railways set themselves out to provide facilities for storage in transit does not absolve them from the finding of unjust discrimination in not applying the same provisions, to the same extent, to other storage facilities. The railways have no special privileges under the statute in this respect.

The respondent carriers stated, in argument, that the effect of our Judgment was to require the steamship companies to establish storage in transit. No such interpretation can be obtained from the Judgment. The whole point at issue is the difference in treatment accorded to through traffic, whether it is by the licensees or by the railways through their joint rail and water tariff provisions. For the railways to assert, as they did in argument, that no storage was being granted "in transit" is contrary to the facts as disclosed in the evidence and the carriers' tariffs.

It is perhaps a fine point as to which type of carrier provides the transit storage, but on the principle of the furtherance rates being a part of the through rate, there can be no question of any lack of "in-transit" storage, and both carriers have provided for the application thereof. I see nothing to warrant reversing our previous finding in this respect.

Order No. 76979 of the 16th July, 1951, will be modified by deleting therefrom in paragraph numbered 2, the words "and/or cartage charges", and substituting therefor "to or from railway team tracks". Order No. 77574 dated the 17th October, 1951, which suspended the operation of the aforesaid Order will be rescinded. While the Order with respect to the question of facilities may be interpreted as enabling the carriers to provide suitable docks or other facilities for the receipt or delivery of goods without the use of railway facilities, the rates herein found unreasonable are to be adjusted by removing therefrom the incidence of top wharfage charges, and also railway switching charges to or from team tracks.

An Order will issue accordingly and will require compliance with the terms of this Judgment on or before the first day of June 1952.

OTTAWA, May 2, 1952.

HUGH WARDROPE.

I concur:

FRANK M. MACPHERSON.

ORDER No. 78869

In the matter of the review by the Board of its findings numbered 4, 5 and 6 in its Judgment dated June 23, 1951, given in the matter of the complaint of Western Grocers Limited, and others, re rates on canned goods by water to Fort William and Port Arthur, Ontario, and of its Order No. 76979, dated July 16, 1951, and the re-hearing of evidence in relation to the said findings:

File No. 42336

FRIDAY, the 2nd day of May, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sitting of the Board at Port Arthur, Ontario, on March 25, 1952, in the presence of Counsel for and representatives of Canada Steamship Lines Limited, Lake Freight Association; Canned Foods Association; Western Grocers Limited; Gateway Grocers Limited; Transportation Committee, Fort William and Port Arthur Chambers of Commerce; Merchants Distributors Limited; Batters Cartage and Storage Company; Canadian Pacific Railway Company and Canadian National Railways—

It is ordered

1. That Order No. 76979, dated the 16th day of July, 1951, be, and it is hereby, amended by striking out the words "railway switching charges and/or cartage charges" in paragraph numbered 2 of the said Order and substituting therefor the words "and railway switching charges to or from railway team tracks".

2. That Order No. 77574, dated the 17th day of October, 1951, be, and it is hereby, rescinded.

3. That Order No. 76979 aforesaid as amended shall be complied with on or before the first day of June, 1952.

HUGH WARDROPE,

Assistant Chief Commissioner.

GENERAL ORDER No. 776

In the matter of the application of the Canadian Pacific Railway Company for approval, for use in passenger cars, of one-quart size, carbon tetrachloride Quick-Aid fire extinguishers manufactured by the General Fireguard Corporation Limited, as shown on Drawing No. T-185-XG, on file with the Board under File No. 4739-35:

MONDAY, the 10th day of March, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the Quick-Aid fire extinguisher, manufactured by General Fireguard Corporation Limited, as shown on the said drawing on file with the Board under File No. 4739-35, be, and it is hereby, approved for use on passenger cars of Canadian railways subject to the jurisdiction of the Board.

HUGH WARDROPE,

Assistant Chief Commissioner.

GENERAL ORDER No. 777

In the matter of Regulations for the Transportation by Express of Acids, Compressed Gases, Inflammables, Oxidizing Substances, Explosives, Etc., and Specifications for Shipping Containers, under Sections 349 and 350 of the Railway Act, and General Order No. 678:

File No. 1717-12

THURSDAY, the 27th day of March, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the Regulations for the Transportation by Express, of Acids, Compressed Gases, Inflammables, Oxidizing Substances, Explosives, Etc., and Specifications for Shipping Containers prescribed under General Order No. 678, dated December 3, 1945, be, and they are hereby, amended by striking out section 182(c) on page 47 thereof and substituting therefor the following:

"Shipments of explosives or other dangerous articles, except poisons and non-inflammable compressed gases, when transported in passenger carrying trains, should be loaded in the car occupied by an express employee or in connecting cars to which an express employee has access through end doors, and in a place that will permit their ready removal in case of fire. They must not be loaded in cars or stored in stations near steam pipes or other sources of heat. Explosives, flammable liquids (red label) and flammable gases (red label) must not be loaded, transported or stored in cars or stations equipped with lighted heaters or where open flame lights or stoves are used.

No placards are required on such cars when occupied by an express employee. Shipments bearing poison label, when practicable, should be loaded in sealed cars; when loaded in cars occupied by messenger, care should be taken to prevent any contents sifting or leaking from containers."

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 78989

In the matter of the application of the Hudson's Bay Company, under Section 21 of The Transport Act, 1938, for approval of Standard Freight Tariff C.T.C. No. F-8, on file with the Board under file No. 42082-31:

MONDAY, the 19th day of May, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Freight Tariff C.T.C. No. F-8 of the Hudson's Bay Company, on file with the Board under file No. 42082-31, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 78788 Apr. 19—Permitting the removal of slow order at Sydney & Louisburg Rly. crossing of Victoria Road, Sydney, N.S.
- 78789 Apr. 19—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.P.R. tracks at Joliette, Que.
- 78790 Apr. 19—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.N.R. tracks at Val d'Or, Que.
- 78791 Apr. 21—Approving proposed location of storage tank, etc., of Canadian Oil Companies, Ltd., near C.N.R. tracks at Toronto, Ont.
- 78792 Apr. 21—Permitting the removal of slow order at New York Central Railroad crossing east of St. Thomas, Ont.
- 78793 Apr. 21—Authorizing the Dominion Atlantic Rly. Co. to reconstruct subway at mileage 23·05 Yarmouth Subdivision, Nova Scotia.
- 78794 Apr. 21—Permitting the removal of slow order at C.P.R. crossing near Prescott, Ont.
- 78795 Apr. 21—Authorizing the Quebec Department of Roads to widen Highway No. 62 across the right-of-way of the C.P.R., Township of Laverlochere, Que.
- 78796 Apr. 21—Authorizing the C.N.R. to construct two tunnels to serve the Alliance Paper Mills, Merritton, Ont.
- 78797 Apr. 21—Approving clearances at the siding serving Canadian General Electric Co. Ltd., at Peterborough, Ont.
- 78798 Apr. 21—Approving use of carbon dioxide type fire extinguisher manufactured by Walter Kidde & Co. of Canada, Ltd.
- 78799 Apr. 21—Approving operation of C.P.R. trains over private siding of the Goodyear Tire & Rubber Co. of Canada, Ltd., Calgary, Alta.
- 78800 Apr. 21—Authorizing the C.N.R. to construct an additional track across Terra Cotta Ave., etc., Hamilton, Ont.
- 78801 Apr. 21—Relieving the C.N.R. from erecting fencing on their Central Butte Subdivision, Saskatchewan.
- 78802 Apr. 21—Amending Order No. 78543 dated March 20, 1952, *re* loading rack, etc., of Canadian Gulf Oil Co. at Big Valley, Alta.
- 78803 Apr. 23—Approving proposed location of warehouse, etc., of Imperial Oil Ltd., near C.P.R. tracks at Moosomin, Sask.
- 78804 Apr. 24—Extending time for installation of protection by The Chesapeake & Ohio Railway Co., at Fingal Road crossing at Middlemarch, Ont.
- 78805 Apr. 24—Extending time for installation of protection at C.N.R. crossing of Highbury Avenue, London, Ont.
- 78806 Apr. 24—Amending Order No. 78449 dated March 4, 1952, *re* application of Hudson's Bay Company for a licence under Section 10 of The Transport Act, 1938.
- 78807 Apr. 24—Authorizing the C.N.R. to operate bridge over Big Otter Creek, Ont.
- 78808 Apr. 24—Approving under Maritime Freight Rates Act, tolls published in tariff filed by the C.P.R. under Section 9.
- 78809 Apr. 24—Approving plans showing proposed overhead bridge over the C.P.R. at Selim Hill, Ont.
- 78810 Apr. 24—Relieving the C.N.R. from erecting fences on their Main Centre Subdivision, Saskatchewan.
- 78811 Apr. 24—Authorizing the C.N.R. to make changes in the signals at Monte Joli Yard, etc.
- 78812 Apr. 24—Authorizing the Department of Public Works for Province of British Columbia to reconstruct overhead bridge over the C.P.R. at mileage 7·37 Mission Subdivision, British Columbia.
- 78813 Apr. 24—Authorizing The Bell Telephone Co. to construct its lines of telephone along a highway in Township of Chatham, Ontario.
- 78814 Apr. 24—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Snowflake Subdivision, Manitoba.
- 78815 Apr. 24—Requiring that all trains of N.S. & T. Rly. come to a stop before passing over Main Street crossing, Port Colborne, Ont.
- 78816 Apr. 24—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Napinka Subdivision, Manitoba.
- 78817 Apr. 25—Approving proposed location of pipe lines, etc., of Imperial Oil Ltd., near C.N.R. tracks at Cobourg, Ont.
- 78818 Apr. 25—Requiring the C.P.R. to install protection at the crossing of its railway and Highway No. 2 at mileage 102·55 Shogomoc Subdivision, New Brunswick.
- 78819 Apr. 25—Requiring the C.P.R. to install protection at the crossing of its railway and Highway No. 2 at mileage 86·83 Shogomoc Subdivision, New Brunswick.
- 78820 Apr. 25—Approving location and details of station building proposed to be erected at Paspebiac, Que.
- 78821 Apr. 25—Approving Standard Freight Tariff C.T.C. No. 19 of the Northern Transportation Co. (1947) Ltd.
- 78822 Apr. 25—Approving Standard Tariff C.T.C. No. 10 of the Yellowknife Transportation Co. Ltd.

- 78823 Apr. 25—Requiring the C.P.R. to install protection at crossing of railway and Highway No. 2 at mileage 90·97 Shogomoc Subdivision, New Brunswick.
- 78824 Apr. 25—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.P.R. tracks at Gladstone, Man.
- 78825 Apr. 25—Permitting the removal of slow order at C.P.R. crossing east of station at Minto, N.B.
- 78826 Apr. 25—Permitting the removal of slow order at C.N.R. crossing west of Kapuskasing, Ont.
- 78827 Apr. 25—Requiring the C.N.R. to install protection at first public crossing west of Astle Station, N.B.
- 78828 Apr. 25—Restricting the speed of trains at crossing of 16th Street by the British Columbia Electric Railway Co. Ltd., New Westminster, B.C.
- 78829 Apr. 25—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Emerson Subdivision, Manitoba.
- 78830 Apr. 25—Permitting the removal of slow order at C.N.R. crossing near La Sarre Station, Que.
- 78831 Apr. 25—Permitting the removal of slow order at C.P.R. crossing of Campbell Ave., Vancouver, B.C.
- 78832 Apr. 25—Permitting the removal of slow order at C.P.R. crossing near station at Enniskillen, N.B.
- 78833 Apr. 28—Authorizing the railway companies to accept for transportation by freight, propellent explosives under certain conditions.
- 78834 Apr. 28—Approving plan showing interlocking of C.P.R. as installed at Glen Tay, Ont.
- 78835 Apr. 28—Restricting the speed of C.N.R. trains at crossing near station at Vanderhoof, B.C.
- 78836 Apr. 28—Approving plan showing changes to the automatic signals at crossing of C.P.R. and C.N.R. near Ringold, Ont.
- 78837 Apr. 28—Amending Order No. 77870 dated Dec. 5, 1951, approving tolls published in Tariff C.T.C. No. 1202 filed by the Dominion Atlantic Rly. Co.
- 78838 Apr. 28—Amending Order No. 77890 dated Dec. 6, 1951, approving tolls published in Tariff C.T.C. No. 1210 filed by the Dominion Atlantic Rly. Co.
- 78839 Apr. 28—Amending Order No. 78757 dated April 15, 1952, approving tolls published in Tariff C.T.C. No. 1210 filed by the Dominion Atlantic Rly. Co.
- 78840 Apr. 28—Authorizing the Quebec North Shore Labrador Rly. Co. to construct the bridge over the Moisie River, Que.
- 78841 Apr. 28—Approving plan showing changes in the interlocking plant at crossing of the Grand River Rly. Co. and C.N.R. near Dundas and Beverley Sts., Galt, Ont.
- 78842 Apr. 28—Restricting the speed of trains over C.N.R. crossing of Main St., Dauphin, Manitoba.
- 78843 Apr. 28—Permitting the removal of slow order at C.N.R. crossing near station at Pepperlaw, Ont.
- 78844 Apr. 28—Extending the time for installation of protection at crossing near Pelton Tower, Ont. (The Chesapeake & Ohio Rly. Co.)
- 78845 Apr. 29—Approving proposed location of storage tank of Irving Oil Co. Ltd., near C.N.R. tracks at Saint John, N.B.
- 78846 Apr. 29—Approving tolls published in tariffs filed by the C.N.R. under Section 3 of the Maritime Freight Rates Act.
- 78847 Apr. 29—Approving location and details of station proposed to be erected by the C.N.R. at Gambo, Newfoundland.
- 78848 Apr. 29—Requiring the C.N.R. to install protection at the crossing of their railway and Highway No. 26 at mileage 123·46 Glendyne Subdivision, Ontario.
- 78849 Apr. 30—Requiring The Toronto, Hamilton & Buffalo Rly. Co. to install protection at crossing of Cochrane Road, Hamilton, Ont.
- 78850 Apr. 30—Approving proposed location of pumps, etc., of Imperial Oil Limited near C.P.R. tracks at Melita, Man.
- 78851 Apr. 30—Approving application of Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) No. 46.
- 78852 Apr. 30—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at Meadow Lake, Sask.
- 78853 Apr. 30—Approving plan showing protection as installed at crossing of C.P.R. and Elm St., Sudbury, Ont.
- 78854 Apr. 30—Authorizing the C.N.R. to operate the bridge at mileage 8·8 Brazeau Subdivision, Alberta.
- 78855 Apr. 30—Authorizing the C.N.R. to remove the station agent and close the agency at Pictou Landing, N.S.
- 78856 Apr. 30—Approving location and details of shelter proposed to be located by C.N.R. at East Riverside, N.B.
- 78857 Apr. 30—Authorizing the C.N.R. to operate the bridge over the Beaver River, Alberta.
- 78858 Apr. 30—Permitting the removal of slow order at C.N.R. crossing north of Mount Albert, Ont.
- 78859 Apr. 30—Permitting the removal of slow order at C.N.R. crossing near Richmond Hill, Ont.

- 78860 Apr. 30—Dispensing with publication of notice of the application of C.N.R., T.H. & B. Rly. Co. & Dominion Foundries & Steel Ltd., *re* portion of railway in City of Hamilton, Ont.
- 78861 Apr. 30—Recommending to the Governor in Council for sanction an agreement between C.N.R., T.H. & B. Rly. Co. & Dominion Foundries & Steel Ltd. *re* use of portion of railway, Hamilton, Ont.
- 78862 Apr. 30—Dispensing with publication of notice of the application of the T.H. & B. Rly. Co., Dominion Foundries & Steel Ltd., whereby the T.H. & B. Rly. Co. grants to Dominion Foundries & Steel Ltd., the use of portion of branch line in City of Hamilton, Ont.
- 78863 Apr. 30—Recommending to the Governor in Council for sanction an agreement between the T.H. & B. Rly. Co. and Dominion Foundries & Steel Ltd. *re* use of portion of branch line in City of Hamilton, Ont.
- 78864 May 1—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Rly. Co. under Sections 3 and 9.
- 78865 May 1—Approving Standard Freight Tariff C.T.C. No. 8 of McInnes Products Corp. Ltd.
- 78866 May 1—Requiring The T.H. & B. Rly. Co. to install protection at crossing of, Rosedale Ave., Hamilton, Ont.
- 78867 May 1—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 78868 May 1—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Rly. Co., under Sections 3 and 9.
- 78869 May 2—Amending Order No. 76979 dated July 16, 1951. *re* complaint of Western Grocers Ltd. *re* rates on canned goods by water to Fort William and Port Arthur, Ont.
- 78870 May 2—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Pugwash Junction, N.S.
- 78871 May 2—Approving proposed location of storage tank, etc., of Imperial Oil Ltd. near C.P.R. tracks at Gronlid, Sask.
- 78872 May 2—Amending Order No. 78180 dated Jan. 28, 1952, *re* approval of plan showing location of crude oil loading facilities for a temporary period at Bashaw, Alta.
- 78873 May 2—Authorizing the C.N.R. to operate their trains through interlocking at crossings of C.P.R. at mileages 13·2 and 13·3 Weyburn Subdivision, Saskatchewan.
- 78874 May 3—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.P.R. tracks at Loreburn, Sask.
- 78875 May 3—Amending Order No. 78542 dated March 20, 1952, *re* highway across C.P.R. at mileage 15·7 Ste. Agathe Subdivision, Quebec.
- 78876 May 3—Approving operation of C.P.R. trains over private siding serving Roscoe Culverts (Alberta) Ltd., Calgary, Alta.
- 78877 May 3—Approving operation of trains of C.P.R. over private siding serving Imperial Oil Ltd. at Crumlin, Ont.
- 78878 May 3—Relieving the C.P.R. from erecting right-of-way fencing between mileages 104·94 and 113·25 Chalk River Subdivision, Ontario.
- 78879 May 3—Authorizing the C.P.R. to construct the highway across its railway at Mentieth St., Rathwell, Man.
- 78880 May 3—Authorizing the Grand Trunk Pacific Rly. Co. to construct an additional track on 121st Street and across 114th Avenue, Edmonton, Alta., etc.
- 78881 May 3—Permitting the removal of slow order at C.N.R. crossing near station at Bradford, Ont.
- 78882 May 5—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.P.R. tracks at Tompkins, Sask.
- 78883 May 5—Approving plan showing changes to signals at interlocking plant at crossing of C.P.R. and C.N.R. at Vankleek Hill, Ont.
- 78884 May 5—Authorizing the Dominion Forge & Stamping Co. Ltd., to construct an overhead bridge to carry steam line, etc., over The Chesapeake & Ohio Railway Co. at Walkerville, Ont.
- 78885 May 5—Approving clearances of loading and unloading facilities on Toronto Harbour Commissioners sidings serving Toronto Elevators Ltd., Toronto, Ont.
- 78886 May 5—Authorizing the C.N.R. and C.P.R. to operate their trains through interlocking plant at crossing of their lines at Carlyle, Sask.
- 78887 May 6—Extending time for installation of protection at crossing of C.N.R. and Mara St., Beaverton East, Ont.
- 78888 May 6—Approving plan showing automatic protection at The Chesapeake & Ohio Rly. Co. crossing of Wilson Ave., St. Thomas, Ont.
- 78889 May 6—Approving proposed location of warehouse, etc., of the British American Oil Co. Ltd., near C.N.R. tracks at Terrace, B.C.
- 78890 May 6—Authorizing issuance of Licence No. C.T.C. (W.T.) 259 to the British Yukon Navigation Co. Ltd.
- 78891 May 6—Authorizing the C.N.R. to operate their trains over Branch line serving Canada West Indies Molasses Co. Ltd., Toronto, Ontario.

- 78892 May 6—Relieving the C.P.R. from erecting cattle guards at highway crossing mileage 3·63 Carberry Subdivision, Manitoba.
- 78893 May 6—Approving clearances of foundry building on private siding serving Light Alloys Ltd., at mileage 67·33 Chalk River Subdivision, Ontario.
- 78894 May 6—Approving plan showing changes to existing signals and new signals for new junctions to and from St. Luc Yard, Montreal, Que.
- 78895 May 6—Approving proposed location of processing facilities of Imperial Oil Limited near C.P.R. tracks at Regina, Sask.
- 78896 May 6—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 78897 May 7—Approving proposed location of storage tank, etc., of Minnesota Mining & Mfg. Co. of Canada, Ltd., near C.N.R. tracks at mileage 28·42 Thorndale Subdivision, Ontario.
- 78898 May 7—Approving proposed location of storage tanks, etc., of Carrot Rivers Consumers Co-operative Assoc. Ltd., near C.N.R. tracks at Carrot River, Sask.
- 78899 May 7—Approving tolls published in Tariff filed by the C.N.R. under Sections 3 and 9 of the Maritime Freight Rates Act.
- 78900 May 7—Authorizing the Newfoundland Department of Public Works to construct the highway across the C.N.R. at mileage 19·46 Bona-Vista Subdivision, Newfoundland.
- 78901 May 7—Amending Order No. 75962 dated Jan. 25, 1951, approving location of bulk storage facilities for the Shell Oil Company, Ltd., at Terrace, B.C.
- 78902 May 7—Authorizing the C.N.R. to operate their trains over crossing of their railway and the C.P.R. at Harrowsmith, Ont.
- 78903 May 7—Requiring that the C.N.R. and C.P.R. operate their trains through the interlocking plant at the west end of Mimico Yard at Mimico, Ont.
- 78904 May 7—Authorizing the C.N.R. to join their sidings with the C.P.R. spur track serving Imperial Oil Ltd. at mileage 2·61 Camrose Subdivision, Alberta.
- 78905 May 7—Approving revisions to Tariff C.T.C. No. 35 filed by the British Columbia Telephone Company.
- 78906 May 7—Permitting the removal of slow order at C.P.R. crossing of Railroad St., Brampton, Ont.
- 78907 May 7—Approving "Stop" signs and signal at the crossing of The Toronto, Hamilton & Buffalo belt line (Beach Branch, Hamilton, Ont.) and C.N.R. Industrial tracks near Ottawa St., Hamilton, Ont.
- 78908 May 7—Rescinding Orders No. 62626, dated Aug. 21, 1942, and No. 76339 dated April 2, 1951, in the matter of protection at crossing of Bethany Street and the C.P.R., Lachute, Que.
- 78909 May 7—Approving plan showing changes to automatic signals at the interlocking plant at crossing of C.P.R. and C.N.R. at St. Johns, Que.
- 78910 May 7—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 78911 May 7—Amending Order No. 78911 dated May 7, 1952, approving tolls published in Tariff filed by the Dominion Atlantic Rly. Co.
- 78912 May 8—Requiring the C.N.R. to install protection at crossing of Memorial Ave., Port Arthur, Ont.
- 78913 May 8—Requiring the C.N.R. to install protection at crossing of Pembina Highway, Winnipeg, Man.
- 78914 May 9—Amending Order No. 75756 dated Dec. 19, 1950, *re* C.N.R. crossing at mileage 17·6 Albreda Subdivision, British Columbia.
- 78915 May 9—Approving proposed location of pumphouse, etc., of Imperial Oil Limited near C.N.R. tracks at Vanderhoof, B.C.
- 78916 May 9—Approving proposed location of storage tank, etc., of Standard Oil Co. of B.C. near C.N.R. tracks at Terrace, B.C.
- 78917 May 9—Approving proposed location of pumphouse, etc., of H. J. O'Connell Ltd., near C.N.R. tracks at La Tuque, Que.
- 78918 May 9—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near tracks of Quebec Central Rly. Co. at St. Georges de Beauce, Que.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, June 16, 1952

No. 6

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

*Application of the British Columbia Telephone Company for approval of
Extended Area Service with the Vancouver and Victoria Exchanges.*

File 32560-33

JUDGMENT

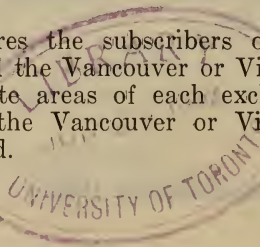
By THE BOARD:

The British Columbia Telephone Company (hereinafter called the Company) has submitted details of its proposal to extend to certain adjoining exchange areas free calling privileges with the exchanges at Vancouver and Victoria. Included therein is evidence to show that, by plebiscite, a substantial majority of the affected subscribers in the areas adjoining the two cities desire such facilities.

In the Vancouver area the affected exchanges are those of Richmond, which includes the Steveston central office; the West exchange which includes the Whytecliff central office, and the North exchange which includes the Deep Cove central office. The proposal is that these exchanges will be able to enjoy free calling between such exchanges and the Vancouver exchange. Additionally it is proposed to ultimately extend the same privileges to calling between the West and North exchanges. It must be noted that such extended service does not apply between the Richmond exchange and either West or North exchanges—and toll rates will continue to apply to any such traffic.

In the Victoria area the affected exchanges are those of Albion, Belmont, and Colquitz, and the proposal here is that all of these exchanges will have free calling from the Victoria exchange and between each other. In this case it might be noted that the plan is practically an enlargement of the Victoria base rate area excepting only as to the incidence of the free mileage radius of each exchange, which will remain unchanged.

The plan, in both metropolitan areas, requires the subscribers of the affected exchanges to pay the same rates as charged the Vancouver or Victoria subscribers, as the case may be. As the base rate areas of each exchange remain unchanged, the total telephone count of the Vancouver or Victoria exchanges for rate grouping purposes is not affected.



The plebiscites which have been conducted in each of the affected exchange areas were by means of informative letters to each subscriber describing the scope of the plan, the rates involved, and by furnishing ballots for the purpose of indicating whether or not the extended service plan was desired. Sworn statements by the Company's District Commercial Managers have been submitted to the Board setting forth the tabulated results of the wishes expressed by the subscribers through such ballots.

For the Albion, Belmont, and Colquitz exchanges, more than 94 per cent of the subscribers who recorded their vote expressed the desire to obtain the service contemplated. About 25 per cent of the total subscribers refrained from recording any vote.

In the Richmond exchange over 78 per cent of the subscribers voting expressed the desire for the contemplated extended area service. About 28 per cent of the total subscribers refrained from voting.

In the North exchange over 66 per cent of those voting desired the extended area service. About 43 per cent of the total subscribers refrained from voting.

In the West exchange over 73 per cent of those voting desired the extended service, and about 31 per cent of the total subscribers refrained from voting.

Failure to record any vote cannot be taken as an indication of disapproval, consequently the Board considers the company's proposal is desired by a substantial majority of the total subscribers.

The institution of extended area service is not, and cannot be, on an optional basis. The facilities which must be provided to carry out the free calling arrangements between the exchanges must be available to all or to none, hence the wishes of the majority must prevail. The additional monthly service charges involved are a consequence of the increased calling range made available to the smaller exchanges.

We have approved similar extended area service at several points in Ontario and Quebec for service by the Bell Telephone Company of Canada. The procedure applied to determine the wishes of the majority in these cases was substantially the same as is herein stated.

Upon consideration of the present application we are of the opinion that the company's application should be approved, and that the Victoria rates, as they may prevail, shall apply to the exchange services of the Albion, Belmont, and Colquitz exchanges, but the inclusion of the telephones of the three stated exchanges shall not be added to the telephones of the Victoria exchange to determine the group rating of the latter exchange. Similarly, the Vancouver rates shall apply to the exchange services of the Richmond, North and West exchanges.

Tariff amendments may be made effective on not less than thirty days' notice.

It is observed that some delay may occur in completing the facility arrangements to give full effect to free calling between certain exchanges. It is the Board's opinion that the assessment of the Vancouver or Victoria rates to the adjoining exchanges carries with it the necessity of providing toll free calling regardless of the manner in which such facilities are arranged. It would be unreasonable, in the Board's opinion, to charge subscribers in the smaller exchange areas the urban rates without eliminating all former toll charges which the plan is designed to displace.

No Order is necessary as the tariff amendments will be approved as and when filed.

JOHN D. KEARNEY,
ARMAND SYLVESTRE,
FRANK M. MacPHERSON.

OTTAWA, May 15, 1952.

ORDER No. 79047

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 20 to Agreed Charge Tariff C.T.C. (AC) No. 11:
File No. 40994-3

MONDAY, the 26th day of May, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commisisoner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 20 to Agreed Charge Tariff C.T.C. (AC) No. 11 on file with the Board under file No. 40994-3, be, and it is hereby, approved, and that the date as from which the said Supplement No. 20 shall be deemed to have become operative is hereby fixed as May 22, 1952.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 79133

In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, Canadian National Railways and Canadian Pacific Railway Company, on petroleum products as therein specified, in carloads, in tank cars only, from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15, 1951:

File No. 40994-35

THURSDAY, the 5th day of June, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas Moose Jaw Refineries Limited has made application under subsection (6) of Section 35 of The Transport Act, 1938, and represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from Moose Jaw, Saskatchewan, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge:

It is ordered that the Agreed Charges approved by the said Order No. 77946, dated December 15, 1951, be, and they are hereby, fixed for the transport, by the said Canadian National Railways and Canadian Pacific Railway Company, of petroleum products as described in paragraph B of the said Agreed Charge for Moose Jaw Refineries Limited from Moose Jaw, Saskatchewan, to the stations referred to in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge, and the Board hereby appoints June 15, 1952, as the date on which the said charges fixed as aforesaid are to come into operation.

JOHN D. KEARNEY,

Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 78919 May 9—Permitting the removal of slow order at C.N.R. crossing near Hazelton, B.C.
- 78920 May 9—Permitting the removal of slow order at C.N.R. crossing east of station at Hudson, Ont.
- 78921 May 9—Amending Order No. 78277 dated Feb. 9, 1952, *re* location of crude oil loading facilities of Central Leduc Oils Ltd., at Armena, Alta.
- 78922 May 9—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.P.R. tracks at Etzikon, Alta.
- 78923 May 9—Extending time for installation of protection at C.N.R. crossing of Notre Dame St., St. Felicien, Que.
- 78924 May 10—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line, Townships of Williamsburg and Matilda, County Dundas, Ontario.
- 78925 May 10—Approving plans, etc., showing location of Trans-Northern Pipe Line Co. pipe line, Townships of Thurlow and Haldimand, Counties of Hastings and Northumberland, Ontario.
- 78926 May 12—Approving Traffic Agreement between The Bell Telephone Co. and The Enterprise Telephone System Ltd.
- 78927 May 12—Approving Appendix A to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Téléphone de Ste-Cecile de Whitton.
- 78928 May 12—Permitting the removal of slow order at C.P.R. crossing near station at North Unity, Sask.
- 78929 May 12—Restricting the speed of trains over C.P.R. crossing of Nairn Ave., Winnipeg, Man.
- 78930 May 12—Permitting the removal of slow order at C.P.R. crossing near Woodbridge, Ontario.
- 78931 May 12—Approving proposed shelter to be erected by C.N.R. at Roger Beach, Que.
- 78932 May 12—Approving Traffic Agreement between The Bell Telephone Co. and La Compagnie de Téléphone Saguenay-Quebec.
- 78933 May 12—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Téléphone de Weedon.
- 78934 May 12—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The Chapleau Telephone System Ltd.
- 78935 May 12—Requiring that all N.S. & T. Rly. radial cars come to a stop before passing over Main St., Port Colborne, Ont.
- 78936 May 12—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Téléphone de St. Samuel de Gayhurst.
- 78937 May 12—Authorizing the C.N.R. to relocate signal at crossing of Kathleen St., Sudbury, Ont.
- 78938 May 12—Authorizing the Grand Trunk Pacific Rly. Co. to relocate across 96th Street, industrial spur serving premises of Waterous Ltd., Edmonton, Alta.
- 78939 May 12—Permitting the removal of slow order at C.P.R. crossing east of station at Cooksville, Ont.
- 78940 May 12—Authorizing the Canadian Northern Rly. Co. to construct main line of its Ridgeville Subdivision across North and South road allowance near Sundown, Man.
- 78941 May 12—Authorizing the Toronto Transportation Commission to construct the tracks of Yonge St. subway under Belt Line Spur of the C.N.R. in Davisville Yard, Toronto, Ont.
- 78942 May 12—Approving abandonment of two sidings of The Oshawa Railway Co. in the City of Oshawa, etc.
- 78943 May 12—Approving automatic signals at crossing of C.P.R. and C.N.R. at Essa South, Ont.
- 78944 May 12—Authorizing the Department of Public Works for Province of British Columbia to construct highway across C.N.R. at mileage 21.0 Tete Jaune Subdivision.
- 78945 May 12—Approving certain Traffic Agreements between The Bell Telephone Co. and various telephone systems.
- 78946 May 12—Requiring the C.N.R. to install protection at crossing of Royale Street, Malaric, Que.
- 78947 May 12—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 78948 May 12—Requiring railways and other carriers to file a supplement to C.F.C. No. 19 striking out Rule 10 and substituting another.
- 78949 May 13—Approving signal changes between White River and Mobert, Ont., Heron Bay Subdivision, C.P.R.
- 78950 May 13—Approving signal changes between Mobert and Pringle, Ont., Heron Bay Subdivision, C.P.R.
- 78951 May 13—Approving signal changes between Mobert and Pringle, Ont., Heron Bay Subdivision, C.P.R.

- 78952 May 13—Approving signal changes between Pringle and Marathon, Ont., Heron Bay Subdivision, C.P.R.
- 78953 May 13—Approving signal changes between Steel and Santoy Ont., Heron Bay Subdivision, C.P.R.
- 78954 May 13—Authorizing the New York Central Railroad Co. to install protection at crossing of Talbot Road, Maidstone, Ont.
- 78955 May 13—Approving proposed storage tank of Imperial Oil Ltd. near C.N.R. tracks at Bruno, Sask.
- 78956 May 13—Authorizing the C.P.R. to construct its passing track extension across road allowance, Township of Flos, County of Simcoe, Ont., at Craighurst.
- 78957 May 13—Approving proposed location of warehouse, etc., of Imperial Oil Ltd. near C.N.R. at Kipling, Sask.
- 78958 May 13—Authorizing the City of Kitchener, Ont., to construct pedestrian crossing over Grand River Rly. along King Street, Kitchener, Ont.
- 78959 May 13—Approving plan showing protection as installed at crossing of C.N.R. and Muskoka Road, Gravenhurst, Ont.
- 78960 May 13—Approving plan showing changes to signals at interlocking plant, C.N.R. and C.P.R. at Bucke, Ont.
- 78961 May 14—Authorizing the C.P.R. to construct its passing track extension at Medonte, Ontario.
- 78962 May 14—Authorizing the C.P.R. to construct its passing track extension at Palgrave, Ontario.
- 78963 May 14—Extending time for installation of protection at Nipissing Central Rly. Co. crossing near Copper Creek, Que.
- 78964 May 14—Approving resolution of Detroit & Canada Tunnel Corp. *re* issuing of tariffs of tolls.
- 78965 May 14—Authorizing the C.N.R. to remove the agent at Chester Basin Station, N.S., during certain months.
- 78966 May 14—Rescinding Orders Nos. 76137 and 76136 *re* undercrossing and additional track, Rue Derveau, St. Boniface, Man.
- 78967 May 14—Permitting the removal of slow order at C.P.R. crossing near Linwood, Ont.
- 78968 May 14—Authorizing the Saskatchewan Department of Highways & Trans. to construct Highway No. 14 across the wye tracks of the C.P.R. in SE ¼-36-30-12-W2M., Alberta.
- 78969 May 14—Authorizing the C.P.R. to operate under overhead bridge at mileage 114·65 Cascade Subdivision, British Columbia.
- 78970 May 14—Requiring the C.N.R. to improve the sight lines at crossing of Wellandport Road near Moulton, Ont.
- 78971 May 14—Authorizing the C.N.R. to operate bridges at mileages 36·5 and 40·1 Cowichan Subdivision, British Columbia.
- 78972 May 15—Approving proposed location of storage tank, etc., of C.P.R. near its tracks at Turner, Ont.
- 78973 May 15—Authorizing the City of Valleyfield, Que., to construct Ellen St. across the C.N.R., Valleyfield, Que.
- 78974 May 15—Authorizing the Esquimalt and Nanaimo Rly. Co. to operate under overhead bridge at mileage 45·25, Victoria Subdivision, British Columbia.
- 78975 May 15—Approving plans showing proposed C.P.R. concrete snowshed at mileage 95·9, Mountain Subdivision, British Columbia.
- 78976 May 15—Authorizing the C.P.R. to operate through its snowshed at mileage 28·2, Coquihalla Subdivision, British Columbia.
- 78977 May 15—Amending Order No. 77683 dated Nov. 6, 1951, *re* location of loading rack, etc., for handling of crude oil at Alliance, Alta.
- 78978 May 15—Requiring C.P.R. to install protection at crossing of 104th Street and 85th Avenue, Edmonton, Alta.
- 78979 May 15—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 78980 May 16—Approving plan showing location of signal at interlocking plant at crossing of C.N.R. and C.P.R. at Davenport, City of Toronto, Ont.
- 78981 May 16—Authorizing the Saskatchewan Department of Highways & Trans. to construct Trans-Canada Highway across the C.P.R. at Java, near Beverley, Sask.
- 78982 May 16—Amending Order No. 72581 dated June 15, 1949, *re* application of Dominion Atlantic Rly. Co. *re* railway between Windsor Jet. and Halifax.
- 78983 May 16—Amending Order No. 72578 dated June 15, 1949, *re* application of Dominion Atlantic Rly. Co. *re* use of tracks and facilities at Truro, N.S.
- 78984 May 16—Approving under Maritime Freight Rates Act toll published in Supplement to Tariff filed by Dominion Atlantic Rly. under Section 9.
- 78985 May 16—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 78986 May 16—Approving under Maritime Freight Rates Act toll published in Supplement to Tariff filed by the C.N.R. under Sections 3 and 9.

- 78987 May 16—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line across the Trent River, Township of Sidney, Ontario.
- 78988 May 19—Approving under Maritime Freight Rates Act toll published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 78989 May 19—Approving Standard Freight Tariff C.T.C. No. F-8 of the Hudson's Bay Company.
- 78990 May 19—Approving clearances at siding serving The Goodyear Tire and Rubber Co. Ltd., at New Toronto, Ont. (C.N.R. & C.P.R.).
- 78991 May 19—Extending time within which protection is to be installed at C.N.R. crossing at Macamic, Que.
- 78992 May 19—Extending time for installation of protection at C.P.R. crossing at mileage 32·74 Maniwaki Subdivision, Quebec.
- 78993 May 19—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Oro Telephone Co. Ltd.
- 78994 May 19—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and Huron and Kinloss Municipal Telephone System.
- 78995 May 19—Approving Traffic Agreement between The Bell Telephone Co. and the Otonabee Municipal Telephone System.
- 78996 May 19—Permitting the removal of slow order at C.P.R. crossing at mileage 44·0, Kerrobert Subdivision, Saskatchewan.
- 78997 May 19—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Neepawa, Man.
- 78998 May 19—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Vita, Man.
- 78999 May 19—Permitting the removal of slow order at N.Y.C. Rly. Co. crossing of Graham St., West Lorne, Ont.
- 79000 May 19—Extending time for installation of protection at crossing of Madoc Road, mileage 71·48 Havelock Subdivision, Province of Ontario.
- 79001 May 19—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 79002 May 19—Approving under Maritime Freight Rates Act toll published in Supplement to Tariff filed by the C.N.R. under Sections 3 and 9.
- 79003 May 19—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and the Maidstone Municipal Telephone System.
- 79004 May 20—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The People's Telephone & Telegraph Co. Ltd.
- 79005 May 20—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and the Austin Telephones, Ltd.
- 79006 May 20—Approving Supplement to Service Station Contract between The Bell Telephone Co. and The Bethesda & Stouffville Telephone Co. Ltd.
- 79007 May 20—Approving Supplement to Service Station Contract between The Bell Telephone Co. and the Ingleside Telephone Co. Ltd.
- 79008 May 20—Approving proposed location of storage tank, etc., of Imperial Oil Ltd. near C.N.R. tracks at Albert, N.B.
- 79009 May 20—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 27, at Summerville, Ont.
- 79010 May 20—Authorizing the C.N.R. to relocate protection at Oxford Street crossing, Township of London, Ont.
- 79011 May 20—Approving proposed location of pumphouse, etc., of C.N.R. near their tracks at Fort Rouge Yards, Winnipeg, Man.
- 79012 May 20—Authorizing the C.P.R. to construct a siding along Middleton St., Galt, Ont.
- 79013 May 20—Approving construction of C.N.R. bridge over the Boyne River, mileage 60·6 Carman Subdivision, Manitoba.
- 79014 May 20—Approving reconstruction of the C.N.R. bridge over Deer Creek, mileage 35·7, Cowichan Subdivision, British Columbia.
- 79015 May 20—Approving reconstruction of C.N.R. bridge over the Boyne River, mileage 61·1 Carman Subdivision, Manitoba.
- 79016 May 20—Requiring the C.P.R. to install protection at crossing of Governor's Road, mileage 90·47 Galt Subdivision, Ontario.
- 79017 May 20—Requiring the Great Northern Railway Co. to install protection at crossing of 13th Avenue, Vancouver, B.C.
- 79018 May 20—Requiring the C.P.R. to install protection at crossing of Highway No. 38, Tichborne, Ont.
- 79019 May 21—Approving Service Station Contract between The Bell Telephone Co. and the Oxford Telephone Co. Ltd.
- 79020 May 21—Approving supplement to service station contract between The Bell Telephone Co. and the Oxford Telephone Co. Ltd.
- 79021 May 21—Extending time for installation of protection by the C.P.R. at St. Gerard Magella near Vauchuse Station, Que.
- 79022 May 21—Permitting the removal of slow order at C.P.R. crossing at mileage 21·97 Adirondack Subdivision, Quebec.

- 79023 May 22—Approving toll published in Tariff filed by the C.N.R. under Sections 3 and 9 of the Maritime Freight Rates Act.
- 79024 May 22—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79025 May 22—Authorizing the C.N.R. to use bridge over Eagle Creek, Sask.
- 79026 May 22—Approving plan showing location of switch and signals proposed to be installed at west end of C.N.R. yard at Capreol, Ont.
- 79027 May 22—Approving proposed location of warehouse, etc., of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Melville, Sask.
- 79028 May 23—Approving plans showing location of the Trans-Northern Pipe Line Co. pipe line in Townships of Haldimand and Hamilton, Ontario.
- 79029 May 23—Approving plans, etc., showing location of Trans-Northern Pipe Line Co. pipe line, County of Frontenac, Ontario.
- 79030 May 23—Requiring the C.N.R. to install protection at crossing of their railway at mileage 29.4 Drummondville Subdivision, Quebec.
- 79031 May 23—Requiring the C.N.R. to install protection at crossing of Sulpicien St., Parish of L'Epiphanie, Que.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
APRIL, 1952

Railway Accidents	207	Killed 17	Injured 212
Level Crossing Accidents.....	27	Killed 9	Injured 38
Totals.....	234	Killed 26	Injured 250

	<i>Killed</i>	<i>Injured</i>
Passengers	1	30
Employees	8	171
Others	17	49
Totals.....	26	250

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

Accidents K. I.

PRINCE EDWARD ISLAND

- 1 — 2 Auto truck ran into side of train. Licence: P.E.I. 2217.

NOVA SCOTIA

- 1 — 3 Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 53016.

QUEBEC

- 1 1 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 332353.
- 1 1 — Automobile stalled on crossing and was struck by train. Licence: Que. 332318.
- 1 1 — Automobile drove onto crossing in front of approaching train and was struck. Que. T-8904.
- 1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-26477.
- 1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
- 1 — 1 Automobile ran into side of train. Licence: Que. 246-003.

Accidents K. I.

ONTARIO

1	1	6	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-47875.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8511-S.
1	—	4	Automobile ran into side of train. Licence: Ont. 3-W-358.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	1	—	Pedestrian walked onto track in front of approaching train and was struck.
1	—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. B-41195.
1	—	1	Automobile ran into side of train. Licence: Ont. CR-547.
1	—	1	Tractor trailer drove onto track in front of approaching train and was struck. Licence: Ont. C-3248.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 1581-E.
1	—	2	Automobile ran into side of train. Licence: Ont. E-6655.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 100-CJ.
1	1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	1	Automobile ran into side of train. Licence not given.
1	—	1	Automobile ran into side of train. Licence: Ont. 14-R-92.

MANITOBA

1	—	2	Auto truck ran into side of train. Licence: Man. P-14655.
---	---	---	---

SASKATCHEWAN

1	1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. 8-163.
1	—	1	Auto truck ran into side of train. Licence: Sask. F-59629.

ALBERTA

1	—	2	Automobile ran into side of train. Licence not given.
---	---	---	---

BRITISH COLUMBIA

1	2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-27587.
---	---	---	---

Of the 27 accidents at highway crossings, 18 occurred at unprotected crossings, and 9 at protected crossings. Fourteen of the accidents occurred after sunrise and thirteen after sunset.

OTTAWA, Ontario, June 5, 1952.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, July 1, 1952

No. 7

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Westcoast Transmission Company Limited, and similar applications from other companies, for an Order granting leave to construct a pipe line for the transportation of gas from the Province of Alberta and/or British Columbia, under Sections 11 and 12 and other relevant sections of the Pipe Lines Act.

Present:

Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

Mr. ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Mr. FRANK M. MACPHERSON, *Commissioner.*

Appearances:

Mr. JOHN J. CONNOLLY, Q.C., appeared for the Alberta Natural Gas Company.

MESSRS. FRANK B. COMMON, JR., M. E. CORLETT and A. M. LAIDLAW, appeared for Champion Pipeline Corporation Ltd.

MESSRS. S. BRUCE SMITH and CUTHBERT SCOTT, Q.C., appeared for Prairie Transmission Lines Ltd.

Mr. J. ROSS TOLMIE appeared for Trans-Canada Pipe Lines Limited.

Hon. J. W. de B. FARRIS, Q.C., and Messrs. DUNCAN MAC TAVISH, Q.C., D. P. McDONALD, Q.C., and R. C. MERRIAM, appeared for Westcoast Transmission Co. Ltd.

Hon. L. MAYNARD, Q.C., and Mr. J. J. FRAWLEY, Q.C., appeared for the Province of Alberta.

Mr. H. ALAN MACLEAN, Q.C., appeared for the Province of British Columbia.

Mr. GORDON C. MEDCALF, Q.C., appeared for the City of Ottawa.
Mr. F. A. A. CAMPBELL, Q.C., appeared for the City of Toronto.

Mr. H. M. HOWE, appeared for the Ontario Hydro Electric Power Commission.

MESSRS. DUNCAN McILRAITH, Q.C., and R. MARTLAND, Q.C., appeared for Western Pipe Lines.

ORAL JUDGMENT

THE CHIEF COMMISSIONER: In conformity with the remarks passed by the Board yesterday we propose to deal with the application which has been heard as well as the other applications, which, at the beginning of the case, were put at the foot of the roll.

With respect to the application of the Westcoast Transmission Company, the Board has noted the letters and declarations of Federal and Provincial authorities with respect to permits and approval of the application of the Westcoast Transmission Company, and has considered the evidence given and the arguments advanced at this hearing, and we think it advisable to state now those conclusions which we have so far reached in regard to the application.

In principle the Board looks with favour on the application of the Westcoast Transmission Company. It is satisfied, particularly at the present stage of developments in connection with the application, with the evidence as to the financial responsibility of the applicant, and likewise, subject to what follows, as to all other considerations in respect to the application, which appear to the Board to be relevant.

In regard to gas reserves the Board considers that it has not had sufficient time to appropriately appraise the evidence submitted thereon, and it proposes to procure, by means of its own Engineering Staff and the Geological Staff made available to it by the Department of Mines and Technical Surveys, an independent estimate of the gas reserves in the Peace River District and such other districts as the Board may determine. Without limiting the scope of the above examination it is intended in particular to assist the Board in appraising the estimates made by the applicants with respect to reserves which are recoverable and available for transmission for the line concerning which a permit is sought.

If and when the Board decides that the gas reserves are sufficient, an Order will issue granting the applicant leave to construct the pipe line.

The Board is not unmindful that the applicant has stated that an essential part of its project is the exportation of gas to the United States of America and the construction there of certain pipe lines by a subsidiary company of the applicant. The Board has also noted the Westcoast Transmission Line application to the Federal Power Commission, which is scheduled to be heard at Washington on the 16th instant. It appears by the order specifying procedure at the said hearing that, among other things, the question of supply or reserves is to receive consideration. As the latter question appears to be a matter of common concern to this Board and the Federal Power Commission, should the latter desire to carry out an examination in Canada by its own technical staff and advisors of the reserves referred to in the application, this Board will be pleased to exchange any relevant information and to offer any facilities which might be of assistance in determining the gas reserves of the applicant.

With respect to the other applications, the Trans-Canada Pipe Line Limited application and Western Pipe Lines application, both applying to export gas eastward from Alberta, the Board adjourns their applications sine die.

With respect to the applicants, Alberta Natural Gas Company and Prairie Transmission Lines Limited, the Petroleum and Natural Gas Conservation Board of Alberta has refused their applications for a permit to export gas from the Province of Alberta to the Pacific Coast and this Board is of the opinion that the aforesaid applications should stand dismissed. In the event, however, that at some subsequent date the applicants should receive permission to export gas from the Province of Alberta they may make new applications to this Board. The Board has no record of the Champion Pipe Line Corporation Limited ever having filed an application to export gas with the Petroleum and Gas Conservation Board of Alberta. This application will likewise stand dismissed.

OTTAWA, Ontario, June 14, 1952.

ORDER No. 79172

In the matter of the application of the Georgian Bay Tourist and Steamships Limited, hereinafter called the "Applicants", for a license under Section 10 of The Transport Act, 1938:

File No. 42076-29

THURSDAY, the 12th day of June, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 260 be issued to the Applicants licensing for the period of one year commencing January 15, 1952, the following ship to transport passengers and/or goods by water between all ports or places in Canada on Georgian Bay:

<i>Vessel Name</i>	<i>Official Registry Number</i>	<i>Gross Tonnage</i>
<i>Midland City</i>	100662	580.16

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79032 May 23—Authorizing the City of Sudbury, Ont., to construct sewer pipe across the C.P.R.
- 79033 May 23—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Lloydminster, Sask.
- 79034 May 23—Approving proposed location of pumping facilities etc., of Moose Jaw Refineries Ltd., near C.N.R. tracks at Moose Jaw, Sask.
- 79035 May 23—Approving Service Station Contract between The Bell Telephone Co. and Port Hope Telephone Co. Ltd.
- 79036 May 26—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The McCreary Telephone Co.
- 79037 May 23—Authorizing the C.P.R. to construct a siding extension across a public road at Kavanagh, Alta.
- 79038 May 23—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line Parish of Pointe aux Trembles to Parish of Ste. Rose, Que.
- 79039 May 23—Exempting the L. & P.S. Rly. from the application of General Order No. 750.
- 79040 May 23—Approving plan showing protection as installed at crossing of C.N.R. and Vidal St. Sarnia, Ont.
- 79041 May 26—Requiring the C.N.R. to install protection at crossing of private road serving Canadian Chemical Co. Ltd., at Clover Bar, Alta.
- 79042 May 26—Approving plan submitted to C.N.R. by The California Standard Company showing location of crude oil loading facilities at Mirror, Alta.
- 79043 May 26—Approving clearances at siding serving Canadian General Electric Co. Ltd. at Peterborough, Ont.
- 79044 May 26—Restricting the speed of trains over C.P.R. crossing of Union Point Road, Fairville, N.B.
- 79045 May 26—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79046 May 26—Permitting the removal of slow order at C.P.R. crossing near Nolan, Alta.
- 79047 May 26—Approving Supplement No. 20 to Agreed Charge Tariff C.T.C. (AC) No. 11.
- 79048 May 27—Permitting the removal of slow order at C.N.R. crossing near station at Drumheller, Alta.
- 79049 May 27—Authorizing the C.P.R. to remove the station agent at La Cave, Que.
- 79050 May 27—Approving plan showing proposed changes to automatic block signals at Clover Bar, near Edmonton, Alta.
- 79051 May 27—Permitting the removal of slow order at the Chesapeake & Ohio Rly. Co. crossing at Cedar Springs, Ont.
- 79052 May 27—Authorizing the C.P.R. to close station agency at Musquash, N.B., and appoint a caretaker.
- 79053 May 27—Authorizing the Ontario Department of Highways to divert Highway No. 17 across the C.P.R., Township of Victoria, by means of an overhead bridge.
- 79054 May 27—Authorizing the C.P.R. to install automatic interlocking at crossing of C.N.R. near Hope, B.C.
- 79055 May 27—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.N.R. under Sections 3 and 9.
- 79056 May 27—Approving plan showing changes in four home signals at interlocking at crossing of C.N.R. and C.P.R. at Anson, Ont.
- 79057 May 27—Authorizing the Dominion Tar & Chemical Co. Ltd., to remove the interlocking at crossing of its trackage and town spurs of C.N.R. and C.P.R. at Trenton, Ont.
- 79058 May 27—Approving plan showing changes to home signals at crossing of C.N.R. and Roberval & Saguenay Rly. Co. at Ha Ha Bay Junction, Que.
- 79059 May 27—Authorizing the Statute Labor Board of Township of Way, Ont., to construct its road across the Algoma Central & Hudson Bay Rly. Co.
- 79060 May 28—Extending time for installation of protection at crossing of Avenue "H" by the C.N.R., City of Saskatoon, Sask.
- 79061 May 28—Approving Traffic Agreement between The Bell Telephone Co. and La Ligne Téléphonique de la Province de Québec.
- 79062 May 28—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Campbell's Bay Rural Telephone Co.
- 79063 May 28—Permitting the removal of slow order at C.N.R. crossing near station at Bellis, Alta.
- 79064 May 28—Approving Traffic Agreement between The Bell Telephone Co. and Le Réseau de Téléphone Shawinigan Valley.
- 79065 May 28—Exempting the Great Northern Rly. Co. from the application of General Order No. 753.
- 79066 May 28—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and the Loring Golden Valley and Powassan Telephones, Ltd.
- 79067 May 28—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and the Percy Municipal Telephone System.

- 79068 May 28—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 79069 May 28—Authorizing the Trans-Mountain Oil Pipe Line Co. to construct its company pipe line under the C.N.R. near Mile 35 Albreda Subdivision, B.C.
- 79070 May 28—Approving location of Trans-Mountain Oil Pipe Line Co. from McMurphy to Birch Island, B.C.
- 79071 May 29—Approving certain revisions to tariffs filed by The Bell Telephone Co.
- 79072 May 29—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 79073 May 29—Permitting the removal of slow order at C.P.R. crossing near station shelter at Le Cap, Que.
- 79074 May 29—Restricting the speed of trains over C.N.R. crossing west of station at Alberton, P.E.I.
- 79075 May 29—Permitting the removal of slow order at C.N.R. crossing of Arthur St., Harriston, Ont.
- 79076 May 29—Extending the time within which protection is to be installed at C.N.R. crossing of 82nd St. and 113th St., Edmonton, Alta.
- 79077 May 29—Approving proposed location of storage tanks, etc., of the Gas & Oil Refineries Ltd., near C.P.R. tracks at Okotoks, Alta.
- 79078 May 29—Approving plan showing location of Trans-Mountain Oil Pipe Line Co. pipe line within the Municipality of Coquitlam, B.C.
- 79079 May 29—Approving plan showing location of Trans-Mountain Oil Pipe Line Co. pipe line within the Municipality of Coquitlam, B.C.
- 79080 May 29—Permitting the removal of slow order at C.N.R. crossing of 118th Avenue at 121st Street, Edmonton, Alta.
- 79081 May 30—Authorizing Alberta Department of Highways to widen highway where it crosses the C.P.R. at mileage 4·8 Langdon Subdivision, Alberta.
- 79082 May 30—Authorizing the Manitoba Department of Public Works to re-locate highway across the C.P.R. at mileage 61·53 Minnedosa Subdivision, Manitoba.
- 79083 May 30—Authorizing the clearances at the C.N.R. sidings serving The Elmira Furniture Co. Ltd., at Elmira, Ont.
- 79084 May 30—Permitting the removal of slow order at C.N.R. crossing near station at Emo, Ont.
- 79085 May 30—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Riviere des Prairies from east bank to the west bank, Counties of Hochelaga and Laval, Quebec.
- 79086 May 30—Authorizing the C.N.R. to reconstruct west approach timber trestle of bridge at mileage 131·6 Fort Frances Subdivision, Ontario.
- 79087 May 30—Authorizing the Alberta Department of Highways to widen highway where it crosses C.N.R. between SM ¼-27-43-21-W4M and SE ¼-26-43-21-W4M., Alberta.
- 79088 May 30—Permitting the removal of slow order at C.P.R. crossing at mileage 101·4 Cascade Subdivision, British Columbia.
- 79089 May 30—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and La Corporation de Téléphone de Québec.
- 79090 May 30—Authorizing the Alberta Department of Highways to re-align highway where it crosses the C.N.R. at mileage 0·50 Kingman Subdivision.
- 79091 May 30—Approving proposed location of storage, tanks, etc., of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Prince Albert, Sask.
- 79092 May 30—Approving proposed location of storage tanks, etc., the Hydro Electric Power Commission of Ontario near N.Y.C. Rly. near Chippawa, Ont.
- 79093 May 30—Permitting the removal of slow order at C.P.R. crossing near Kamloops, British Columbia.
- 79094 May 30—Amending Orders Nos. 75721 and 76683, and authorizing acceptance by railways from Imperial Oil Ltd., Class I.C.C. 104 Tank Cars converted as outlined.
- 79095 May 30—Approving proposed location of warehouse, etc., of Imperial Oil Ltd., near C.P.R. tracks at Coronach, Sask.
- 79096 June 2—Approving location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Swan River, Man.
- 79097 June 2—Authorizing the C.P.R. to construct a siding across King St. East, in the City of Kitchener, Ont.
- 79098 June 2—Requiring that all movements over the C.N.R. crossing south of Fleet St., Toronto, shall stop clear of crossing and then proceed on hand signal.
- 79099 June 2—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 40, Sarnia, Ont.
- 79100 June 2—Authorizing the Ontario Department of Highways to construct highway across the C.N.R. by an overhead bridge, east of Yonge St., Township of North York, Ontario.
- 79101 June 2—Authorizing the Alberta Department of Highways to re-align and widen the highway across the C.N.R. at mileage 24·73 Demay Subdivision, Alberta.

- 79102 June 2—Permitting removal of slow order at C.N.R. crossing north of station at St. Valentin, Que.
- 79103 June 2—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at Neebing, Ont.
- 79104 June 2—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Co. Ltd., near C.P.R. tracks at Nelson, B.C.
- 79105 June 2—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Co. Ltd., near C.P.R. tracks at Cranbrook, B.C.
- 79106 June 2—Approving proposal location of storage tanks, etc., of McColl-Frontenac Oil Co. Ltd., near C.P.R. tracks at Kamloops, B.C.
- 79107 June 2—Authorizing the clearances of C.N.R. freight shed platform at Cobourg, Ont.
- 79108 June 2—Authorizing the C.N.R. to reconstruct the frame and pile trestle at mileage 71.5 Grande'Mere Subdivision.
- 79109 June 3—Authorizing the Manitoba Department of Public Works to construct the Trans-Canada Highway over spur track of the C.P.R. St. Boniface, Man.
- 79110 June 3—Authorizing the Saskatchewan Department of Highways and Transportation to construct an overhead bridge across the C.P.R. at mileage 1.6 Indian Head Subdivision.
- 79111 June 3—Authorizing the Trans-Northern Pipe Line Co. to construct its company pipe line under highways in Townships of Williamsburg, Thurlow, Sidney and Brighton, Ontario.
- 79112 June 3—Authorizing the Trans-Northern Pipe Line Co. to construct its company pipe line under highways in Townships of Williamsburg, Thurlow, Sidney and Brighton, Ontario.
- 79113 June 3—Authorizing the Trans-Northern Pipe Line Co. to construct its company pipe line under highways in Townships of Williamsburg, Thurlow, Sidney and Brighton, Ont.
- 79114 June 3—Authorizing the Trans-Northern Pipe Line Co. to construct its company pipe line under highways in Townships of Williamsburg, Thurlow, Sidney and Brighton, Ont.
- 79115 June 3—Authorizing the C.N.R. to reconstruct bridge over the Boyne River, Man.
- 79116 June 3—Authorizing the Alberta Department of Highways to widen the highway where it crosses the C.P.R. at mileage 23.3 Strathmore Subdivision, Alberta.
- 79117 June 3—Authorizing the Alberta Department of Highways to widen the highway where it crosses the C.P.R. at mileage 20.0 Strathmore Subdivision, Alberta.
- 79118 June 3—Permitting the removal of slow order at C.N.R. crossing west of Princeton, Ontario.
- 79119 June 3—Approving location and details of proposed C.N.R. freight and passenger shelter at Brule, Alta.
- 79120 June 4—Authorizing the Manitoba Department of Public Works to construct the Trans-Canada Highway across the C.P.R., Municipality of St. Boniface, Man.
- 79121 June 4—Requiring the C.P.R. to install protection at crossing of Highway No. 2, Calgary, Alta.
- 79122 June 4—Approving proposed location of storage tank, etc., of the Board of Light and Heat Commissioners of Guelph near C.N.R. tracks at Guelph, Ont.
- 79123 June 4—Approving tolls published in tariffs filed by the C.N.R. under Section 3 of the Maritime Freight Rates Act.
- 79124 June 4—Requiring the C.N.R. to install protection at crossing of Murdock Avenue, Noranda, Que.
- 79125 June 4—Rescinding Order No. 53870 dated Jan. 7, 1937, requiring the N.Y.C. Rly. Co. to establish instructions covering westbound and eastbound movements between C.N.R. and M.C.R. interlocker east of Welland and the Welland Canal Drawbridge interlocker west of Welland.
- 79126 June 5—Approving plans showing location of Trans-Mountain Pipe Line Co. in Townships of Lansdowne Front and Pittsburgh, County of Frontenac, Ont.
- 79127 June 5—Approving plans, etc. showing location of Trans-Northern Pipe Line Co. pipe line, Townships of Matilda and Edwardsburg, Ontario.
- 79128 June 5—Approving By-law No. 445 of City of Outremont, Que. *re* sounding of engine whistles.
- 79129 June 5—Approving under the Maritime Freight Rates Act tolls published in tariff as amended by supplements filed by the C.N.R. under Sections 3 and 9.
- 79130 June 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney & Louisburg Rly. Co. under Section 9.
- 79131 June 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by Canada & Gulf Terminal Rly. Co. under Section 9.
- 79132 June 5—Approving location of storage tanks, etc., of Imperial Oil Ltd. near C.N.R. tracks at Sioux Lookout, Ont.
- 79133 June 5—Fixing Agreed charges approved by Order No. 77946 dated December 15, 1951, for the transport by the C.N.R. and C.P.R. of petroleum products for Moose Jaw Refineries Ltd., etc.

- 79134 June 5—Permitting the removal of slow order at C.N.R. crossing between Blackwater and Uxbridge, Ont., mileage 22·51 Uxbridge Subdivision.
- 79135 June 5—Approving proposed location of underground storage tank of Reliance Petroleum, Ltd., near tracks of L. & P.S. Rly. Co. at St. Thomas, Ont.
- 79136 June 5—Permitting the removal of slow order at C.P.R. crossing north of station at Paquin, Que.
- 79137 June 5—Restricting the speed of trains at crossing of Grande River Ave., and the Lake Erie & Northern Rly., Brantford, Ont.
- 79138 June 5—Permitting the removal of slow order at C.N.R. crossing near station at Sibbald, Alta.
- 79139 June 5—Approving proposed location of storage tank, etc., of the L.P. Gas Company, Ltd., near the C.P.R. tracks at Penticton, B.C.
- 79140 June 5—Permitting the removal of slow order at C.N.R. crossing at mileage 29·93 Maynooth Subdivision.
- 79141 June 5—Extending time for installation of protection at C.N.R. crossing of Montrose Road near Stamford, Ont.
- 79142 June 5—Authorizing the Quebec Department of Roads to re-locate and widen Highway No. 41 across the C.P.R. at mileage 44·31 Three Rivers Subdivision.
- 79143 June 5—Directing the Bell Telephone Co. to transfer certain exchanges from one group to another.
- 79144 June 5—Approving under the Maritime Freight Rates Act tolls published in Tariff and Supplement filed by the C.N.R. under Sections 3 and 9.
- 79145 June 6—Approving plans in lieu of others approved under Order No. 79069 dated May 28, 1952, *re* application of Trans-Mountain Oil Pipe Line Co. to construct line under C.N.R. near mileage 35 Albreda Subdivision, Province of British Columbia.
- 79146 June 6—Approving tolls published in Tariff filed by the C.P.R. under Section 9 of the Maritime Freight Rates Act.
- 79147 June 6—Permitting removal of slow order at C.N.R. crossing of Keene Road between Keene and East Storage, Ont.
- 79148 June 6—Permitting the removal of slow order at C.P.R. crossing near station at Wetaskiwin, Alta.
- 79149 June 6—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Ste. Agathe, Man.
- 79150 June 6—Restricting the speed of trains over C.N.R. crossing of intersection of MacDonald and Park Streets, City of Peterborough, Ont.
- 79151 June 6—Authorizing Department of Highways Alberta, to construct a temporary timber overpass over the C.P.R. in S.E. $\frac{1}{4}$ -26-24-1 W5M., Alberta, at mileage 2·9 Red Deer Subdivision.
- 79152 June 6—Approving proposed location of connecting pipe lines, etc., of C.N.R. for handling and storage of inflammable liquids for Diesel locomotives at Cape Tormentine, N.B.
- 79153 June 6—Approving revised plan showing details of overhead bridge in Richmond, Que., at mileage 86·61 Danville Subdivision. (C.N.R.)
- 79154 June 6—Authorizing C.N.R. to reconstruct the bridge over Ouiaichouan River, Que., at mileage 6·4 Roberval Subdivision.
- 79155 June 7—Authorizing Department of Highways, Ontario, to construct Trans-Canada Highway across C.P.R. in Lot 9, Con. 5, Twp. of Hallam, Ontario, mileage 1·01 Thessalon Subdivision; C.P.R. to close existing crossing between Lots 8 and 9, Con. 6, Twp. of Hallam, Ontario, mileage 0·93 Thessalon Subdivision, after completion of authorized crossing.
- 79156 June 7—Directing that no engine, car or train shall pass over C.N.R. crossing of Hunter St., Hamilton, Ont., mileage 1·5 Hagersville Subdivision.
- 79157 June 7—Authorizing C.P.R. to construct a proposed passing siding extension across road allowance between N.E. $\frac{1}{4}$ S. 4 and N.E. $\frac{1}{4}$ of S. 15 all in Twp. 22, Rge. 27, W4M., near Dalemead, Alberta, mileage 152·91 Brooks Subdivision.
- 79158 June 10—Approving terms and conditions on passes of the New York Central R.R. Co.
- 79159 June 10—Authorizing C.N.R. and Lake Erie and Northern Rly. Co. to operate through interlocking at crossing of their railways at Galt, Ont.; trains of L.E. & N. Rly. not to exceed a speed of ten miles an hour when approaching said crossing and is within one thousand feet of governing home signals; C.N.R. trains not to exceed speed of fifteen miles an hour when approaching said crossing and is between distant and home signals.
- 79160 June 10—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Sections 3 and 9.
- 79161 June 10—Authorizing the McColl-Frontenac Oil Co. Ltd. to construct a pipe line crossing under the C.N.R. at East Windsor, Ont.
- 79162 June 10—Authorizing the C.N.R. to construct the main line of its Letellier Subdivision and a siding track across Charles St., Morris, Man.
- 79163 June 10—Authorizing the C.N.R. to construct the main line of its Letellier Subdivision across Montreal St., Morris, Man.

- 79164 June 10—Authorizing the C.N.R. to construct the main line of its Letellier Subdivision across Boyne Ave., Morris, Man.
- 79165 June 10—Dismissing the application of Town of Victoriaville, Que., to construct a public crossing on Boulevard de la Cooperative east of St. Francois St., Victoriaville. Que.
- 79166 June 10—Authorizing the C.N.R. to construct the main line of its Miami Subdivision, across Fifth Ave., Morris, Man.
- 79167 June 10—Authorizing the C.N.R. to construct the main line of its Miami Subdivision across Pine St., Morris, Man.
- 79168 June 10—Authorizing the C.N.R. to construct the main line of its Miami Subdivision across Statron St., Morris, Man.
- 79169 June 10—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, July 15, 1952

No. 8

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 79296

In the matter of the application of the Governor and Company of Adventurers of England Trading into Hudson's Bay (commonly known as "Hudson's Bay Company"), hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

And in the matter of Order No. 78449, dated March 4, 1952:

File No. 42076-34

THURSDAY, the 26th day of June, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 78449, dated March 4, 1952, be, and it is hereby, amended by striking out the following words and figures listed under the headings in paragraph numbered 1 of the said Order:

"H.B.C. Barge No. 22 173706 192"

JOHN D. KEARNEY,
Chief Commissioner.



ORDER No. 79295

In the matter of the application of Northern Transportation Company (1947) Limited, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

And in the matter of Order No. 78460, dated March 5, 1952:

File No. 42076-33

THURSDAY, the 26th day of June, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 78460, dated March 5, 1952, be, and it is hereby, amended by adding under the respective headings in paragraph numbered 1 of the said Order the following words and figures:

"Radium 80 173706 192-44"

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 79133

In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, Canadian National Railways and Canadian Pacific Railway Company, on petroleum products as therein specified, in carloads, in tank cars only, from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15, 1951:

File No. 40994.35

THURSDAY, the 5th day of June, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Whereas Moose Jaw Refineries Limited has made application under subsection (6) of Section 35 of The Transport Act, 1938, and represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from Moose Jaw, Saskatchewan, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge:

It is ordered that the Agreed Charges approved by the said Order No. 77946, dated December 15, 1951, be, and they are hereby, fixed for the transport, by the said Canadian National Railways and Canadian Pacific Railway Company, of petroleum products as described in paragraph B of the said Agreed Charge for Moose Jaw Refineries Limited from Moose Jaw, Saskatchewan, to the stations referred to in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints June 15, 1952, as the date on which the said charges fixed as aforesaid are to come into operation.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 79047

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 20 to Agreed Charge Tariff C.T.C. (AC) No. 11:
File No. 40994·3

MONDAY, the 26th day of May, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 20 to Agreed Charge Tariff C.T.C. (AC) No. 11 on file with the Board under file No. 40994·3. be, and it is hereby, approved, and that the date as from which the said Supplement No. 20 shall be deemed to have become operative is hereby fixed as May 22, 1952.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 79275

In the matter of Agreed Charge between certain railway company and The British American Oil Company, Limited, Canadian Oil Companies, Limited, Cities Service Oil Company, Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited, Shell Oil Company of Canada, Limited and The White Star Refining Company, Limited, on petroleum products as therein specified in carloads, in tank cars only, from refineries and marine terminals in Ontario (also Hull and Hull West, Quebec) to points in the Province of Ontario (also Hull and Hull West, Quebec), approved by Order No. 59568, dated August 29, 1940:

File No. 40994·3

WEDNESDAY, the 25th day of June, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas Sterling Fuels has made application under subsection (6) of Section 35 of The Transport Act, 1938, and represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from Port Stanley, Ontario, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the agreed charges approved by the said Order No. 59568, dated August 29, 1940, with the increase authorized by Order No. 70480, dated April 8, 1948, be, and they are hereby, fixed for the transport by the said rail carriers of petroleum products as described in paragraph B of the said Agreed Charge for Sterling Fuels from Port Stanley, Ontario, to the stations referred to in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said charges fixed as aforesaid are to come into operation.

JOHN D. KEARNEY,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
MAY, 1952

Railway Accidents	245	Killed 14	Injured 246
Level Crossing Accidents	30	Killed 13	Injured 45
Totals.....	275	Killed 27	Injured 291

	<i>Killed</i>	<i>Injured</i>
Passengers	1	37
Employees	2	198
Others	24	56
	27	291

DETAILS OF ACCIDENTS AT HIGHWAY COSSINGS

NOVA SCOTIA

Accidents K. I.

1 — 1 Auto truck ran into side of track motor car. Licence not given.

NEW BRUNSWICK

1 — 5 Automobile ran into side of train. Licence: N.B. 55-147.

1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 55-265.

QUEBEC

1 2 — Auto truck ran into side of train. Licence: Que. F-6502.

1 2 2 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. N-1892.

1 1 — Pedestrian walked onto tracks in front of approaching train and was struck.

ONTARIO

1 — 2 Auto truck ran into side of train. Licence not given.

1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 4-B-833.

1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. J-1906.

1 1 1 Automobile ran into side of train. Licence: Ont. 6783-Z.

1 2 — Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 726-P-7.

1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-64315.

1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 205530.

1 — 5 Automobile drove onto crossing in front of approaching track motor car and was struck. Licence: Ont. E-2155.

1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 83-T-32.

1 — 2 Automobile ran into side of train. Licence: Ont. Y-729.

1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 131-577.

1 — 3 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 686-V-4.

1 1 — Pedestrian walked onto crossing in front of approaching train and was struck.

1 — 3 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-26621.

1 1 2 Automobile ran into side of train. Licence not given.

1 — 1 Automobile ran into side of standing train. Licence: Ont. 9160-N.

1 — 3 Automobile ran into side of standing train. Licence: Ont. 7163-N.

1 1 — Motorcyclist thrown against side of train. Licence: Ont. 8196.

SASKATCHEWAN

- 1 — 1 Automobile drove onto crossing in front of approaching track motor car and was struck. Licence: Sask. 86-464.
- 1 1 — Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 36-627.

ALBERTA

- 1 — 1 Automobile ran into side of track motor car. Licence not given.
- 1 — 2 Automobile ran into side of train. Licence: Alta. 26-K-11.
- 1 — 3 Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 50-B-92.

BRITISH COLUMBIA

- 1 1 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 8-H-49.

Of the 30 accidents at highway crossings, 21 occurred at unprotected crossings, and 9 at protected crossings. Twenty of the accidents occurred after sunrise and ten after sunset.

OTTAWA, Ont., July 4, 1952.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79170 June 10—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 79171 June 11—Requiring the C.N.R. to install protection at crossing of St. Charles North Road, Quebec West, Que.
- 79172 June 12—Authorizing issuance of Licence No. C.T.C. (W.T.) 260 to the Georgian Bay Tourist & Steamships Ltd.
- 79173 June 12—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Section 9.
- 79174 June 12—Approving plan showing protection as installed at crossing of C.N.R. and Lincoln St., Welland, Ont.
- 79175 June 13—Authorizing the Canadian Collieries (Dunsmuir) Ltd. and the Esquimalt & Nanaimo Rly. to operate their trains through the interlocker near Royston, B.C.
- 79176 June 14—Approving plans showing location of Trans-Mountain Oil Pipe Line Co. line within Mount Robson Provincial Park, B.C.
- 79177 June 14—Permitting the removal of slow order at Great Northern Rly. crossing of Spesling Ave., Burnaby, B.C.
- 79178 June 16—Authorizing the C.N.R. to make signal changes to the interlocker at St. James Junction near Winnipeg, Man.
- 79179 June 16—Approving location of proposed new station to be erected by the C.P.R. at Alton, Ont.
- 79180 June 16—Extending time for installation of protection at C.P.R. crossing of Regent St., Sudbury, Ont.
- 79181 June 16—Authorizing The Bell Telephone Co. to construct its line of telephone along certain highways in Township of Harwich, Ontario.
- 79182 June 16—Amending Order No. 78313 dated Feb. 18, 1952, *re* accident on Nov. 23, 1951, at C.P.R. crossing north of station at Guelph, Ont.
- 79183 June 16—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79184 June 16—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.N.R. under Sections 3 and 9.
- 79185 June 16—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.N.R. under Sections 3 and 9.
- 79186 June 16—Authorizing the Corporation of the Parish of St. Bruno, Que., to widen Canal Range Road where it crosses the C.N.R. at mileage 63·81 St. Hyacinthe Subdivision, Quebec.
- 79187 June 16—Authorizing the C.P.R. to construct a proposed siding across Caribou St. and two lanes between Wade Ave. and Rigsby St., Penticton, B.C.
- 79188 June 16—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Dominion Atlantic Rly. Co. under Sections 3 and 9.
- 79189 June 16—Approving clearance of the gravel hopper of the C.N.R. mileage 190·96 Clarendville Subdivision, Newfoundland.
- 79190 June 16—Amending Order No. 79100 dated June 2, 1952, authorizing the Department of Highways for Province of Ontario to construct the highway across the C.N.R., Township of North York, Ontario.
- 79191 June 16—Authorizing the British Columbia Department of Public Works to use for highway traffic C.P.R. bridge over Fraser River at Mission, B.C.
- 79192 June 16—Requiring the R.M. of Assiniboia, Man., to install protection at crossing of Highway No. 1 at Headington, Man.
- 79193 June 16—Authorizing the C.N.R. to install protection at Government Road crossing, Town of Rainy River, Ont.
- 79194 June 16—Authorizing the C.N.R. to construct proposed extension of their westward track across Shaw Drive, Township of Toronto, Ontario.
- 79195 June 16—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in Gananoque River, Township of Leeds, Ontario.
- 79196 June 16—Permitting the removal of slow order at C.N.R. crossing (Seaside Crossing) Mulgrave, N.S.
- 79197 June 16—Authorizing the Manitoba Department of Public Works to construct Highway No. 5 across the C.N.R. at mileage 0·10 Rosburn Subdivision.
- 79198 June 16—Restricting the speed of trains over crossing of Oshawa Railway and Nonquon Road, Oshawa, Ont.
- 79199 June 16—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at Mutana, Sask.
- 79200 June 16—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.N.R. under Sections 3 and 9.
- 79201 June 16—Requiring the British Columbia Telephone Co. to transfer certain exchanges from one group to another.
- 79202 June 16—Authorizing the C.N.R. to reconstruct the bridge over Chaloude Creek, Que.

- 79203 June 16—Authorizing the C.N.R. to make changes to the signal protection at interlocking plant at Pacific Junction, near Winnipeg, Man.
- 79204 June 16—Requiring the C.N.R. to install protection at crossing of Route No. 2, Parish of St. Leonard, N.B.
- 79205 June 16—Authorizing The Bell Telephone Co. to construct its line of telephone across certain public highways in County of Kent, Ontario.
- 79206 June 16—Extending time for installation of protection at C.P.R. crossing at Burketon, Ontario.
- 79207 June 16—Authorizing the C.N.R. to construct their railway across road allowance, mileage 2·4 Blaine Lake Subdivision, Saskatchewan.
- 79208 June 16—Approving proposed location of pumphouse, etc., of C.N.R. near their tracks at Melville, Sask.
- 79209 June 16—Approving proposed location of storage tanks, etc., of the British American Oil Co. Ltd., near C.N.R. tracks at Rimouski, Que.
- 79210 June 16—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under Section 9.
- 79211 June 16—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under Section 9.
- 79212 June 16—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under Section 9.
- 79213 June 17—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominion Atlantic Railway Co. under Section 9.
- 79214 June 17—Permitting the removal of slow order at C.P.R. crossing near Magog, Que.
- 79215 June 17—Approving signals as shown on plan at C.N.R. crossing of its Alexandria Hemingford Subdivisions, at Barrington, Que.
- 79216 June 17—Approving under Maritime Freight Rates Act tolls published in Supplement to tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 79217 June 17—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Section 9.
- 79218 June 17—Requiring the C.P.R. to install protection at crossing of its railway and Route No. 11 at mileage 96·81 St. Agathe Subdivision.
- 79219 June 18—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under Sections 3 and 9.
- 79220 June 18—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under Sections 3 and 9.
- 79221 June 18—Permitting the removal of slow order at C.N.R. crossing near station at Vars, Ont.
- 79222 June 18—Permitting the removal of slow order at C.P.R. crossing of 11th Avenue, Swift Current, Sask.
- 79223 June 18—Approving proposed location of pumphouse, etc., of C.N.R. near their tracks at Gibbar, Sask.
- 79224 June 18—Permitting the removal of slow order at C.P.R. crossing of St. Ambroise St., Quebec City, Que.
- 79225 June 18—Authorizing the Alberta Department of Highways to construct the highway across the C.N.R. near Donald Station, Alta.
- 79226 June 18—Authorizing the Statute Labour Board of Township of Hanlan, Ont., to construct the highway across the C.N.R. at mileage 6·61 Pagwa Subdivision, Ontario.
- 79227 June 18—Approving under Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the C.N.R. under Sections 3 and 9.
- 79228 June 18—Rescinding Order No. 60938, dated July 10, 1941, *re* proposed C.N.R. rules for use in Centralized Traffic Control territory between Gort and West End and Moncton to Truro.
- 79229 June 18—Rescinding Order No. 61130, dated August 22, 1941, *re* application of C.N.R. for approval of amended Rule 717, dated August 20, 1941, marked "B" of the Centralized Traffic Control Rules.
- 79230 June 18—Restricting the speed of trains over C.P.R. crossing of Henderson St., Quebec City, Que.
- 79231 June 18—Extending the time for installation of protection at C.P.R. crossing near White Fish Falls Station, Ont.
- 79232 June 18—Approving operation of C.P.R. trains over private siding serving J. H. Bryant Ltd., Sherbrooke, Que.
- 79233 June 18—Approving under Maritime Freight Rates Act tolls published in tariffs filed by The Canadian Freight Association under Sections 3 and 9.
- 79234 June 18—Approving under Maritime Freight Rates Act tolls published in tariffs filed by The Canadian Freight Association under Sections 3 and 9.
- 79235 June 18—Approving under Maritime Freight Rates Act tolls published in tariffs filed by The Canadian Freight Association under Sections 3 and 9.
- 79236 June 18—Authorizing the Canadian Northern Rly. Co. to abandon operation of its Westport Subdivision, between Lyn Junction and Westport, Ont.

- 79237 June 18—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under Sections 3 and 9.
- 79238 June 18—Amending Order No. 79001, dated May 19, 1952, approving tolls published in Tariff C.T.C. No. 1210 filed by the Dominion Atlantic Rly. Co.
- 79239 June 18—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 79240 June 18—Authorizing the Toronto Harbour Commissioners to construct a siding to serve the leasehold bonds of Gair Company of Canada Ltd. on Basin St., Toronto, Ont.
- 79241 June 19—Authorizing the Quebec Department of Roads to re-locate the highway between St. Constant and St. Remi across the C.P.R. at mileage 35·96 Adirondack Subdivision.
- 79242 June 19—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79243 June 19—Restricting the speed of trains over C.N.R. crossing of St. George St., Fergus, Ont.
- 79244 June 19—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.N.R. tracks at Vassar, Man.
- 79245 June 19—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Welland County Telephone Co. Ltd.
- 79246 June 19—Relieving the C.N.R. from erecting fencing on their Lewvan Subdivision, Saskatchewan, between mileages 0·0 to 115.
- 79247 June 19—Approving Traffic Agreement between The Bell Telephone Co. and The Rural Telephone Co. of Kitley.
- 79248 June 19—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Commissioners for the Telephone System of the Township of Drummer.
- 79249 June 19—Approving proposed location of warehouse, etc., of Champlain Oil Products Ltd., near C.P.R. tracks at Shawinigan Falls, Que.
- 79250 June 19—Approving plan for a temporary period, submitted to the C.N.R. by Great Plains Development Co. Ltd., showing location of crude oil loading facilities at Munson, Alta.
- 79251 June 19—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Section 9.
- 79252 June 20—Authorizing the C.N.R. to remove the station agent at Yarker, Ont.
- 79253 June 20—Authorizing the B.C. Department of Public Works to construct highway across the C.P.R. at mileage 16·64 Kimberley Subdivision.
- 79254 June 20—Approving operation of C.P.R. trains over private siding serving the Canadian Resins & Chemicals Ltd., Shawinigan Falls, Que.
- 79255 June 20—Relieving the C.N.R. from erecting right of way fencing between mileage 0·00 and mileage 150·55 Gravelbourg Subdivision, Province of Saskatchewan.
- 79256 June 20—Relieving the C.N.R. from erecting right of way fencing between mileage 0·00 and mileage 91·84 Glenavon Subdivision, Province of Saskatchewan.
- 79257 June 20—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, August 1, 1952

No. 9

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Government of the Province of Alberta and others for the provision of interchange facilities between the railways of the Canadian National Railways and the Canadian Pacific Railway Company at Lloydminster:

File No. 6713-255

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
FRANK M. MACPHERSON, *Commissioner.*

Appearances:

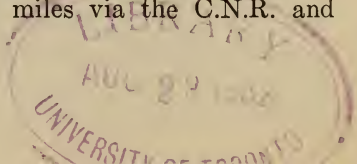
J. E. HART, Q.C., for the Government of the Province of Alberta.
M. A. MACPHERSON, Q.C., for Excelsior Refineries Limited and
Elsro Asphalt Limited.
EDWIN Z. ANDERSON, for the Town of Lloydminster and Lloydminster
Board of Trade.
A. K. DYSART, for the Canadian National Railways.
N. C. NORTON, for the Canadian Pacific Railway Company.

JUDGMENT

BY THE BOARD,

The Government of the Province of Alberta applied for an Order directing the establishment of an interchange track between the railways of the Canadian National Railways and the Canadian Pacific Railway Company in Lloydminster. The application was supported by the Town of Lloydminster, Excelsior Refineries Limited and other industries and was heard at Lloydminster on May 26, 1952.

The railway lines of the C.N.R. and C.P.R. run through the Town of Lloydminster but there are no interchange facilities between them. The nearest points at which carload traffic can be interchanged are North Battleford, Saskatchewan, which is approximately eighty-four miles via the C.N.R. and



approximately one hundred and twenty-three miles via the C.P.R. east of Lloydminster, and at South Edmonton which is approximately one hundred and eighty-one miles via C.N.R. and one hundred and seventy-five miles via C.P.R. west of Lloydminster.

The Canadian Pacific Railway Company was at first opposed to the establishment of the interchange but later stated that it is agreeable to such establishment and is willing to contribute whatever share of the cost of construction, maintenance and operation the Board may consider reasonable. The Town of Lloydminster is willing to contribute \$500.00 to the cost and Excelsior Refineries Limited also is willing to contribute.

The Canadian National Railways are opposed to the granting of the application unless the use of the interchange is limited to the handling of traffic to or from local points on each line of railway and to On Company's Service (O.C.S.) traffic for either railway.

The question for decision is whether there is such a public interest as will justify the interchange. We are satisfied that the evidence establishes that there is such a public interest. The suggestion of Canadian National Railways for limitation of the traffic over the interchange has been considered but it is our opinion that an Order for the construction of the interchange should be made now without any such limitation. If and when it is established that the interchange is not serving the public interest but is serving primarily to enable the Canadian Pacific Railway Company to solicit and obtain traffic to and from competitive points, traffic which the Canadian National Railways have originated and built up over a considerable number of years, the Board will be willing to consider the question of limiting the use of the interchange as suggested by Counsel for Canadian National Railways if such limitation is within the Board's powers.

The most suitable location for the interchange track is that which is shown as Location No. 1 on exhibit No. 7 filed at the hearing. According to estimates given to the Board the cost of construction should not exceed \$14,000.00 and may be less than that amount.

An Order will issue directing the Canadian Pacific Railway Company to construct and maintain the interchange track at Location No. 1. Five hundred dollars shall be contributed by the Town of Lloydminster towards the cost of construction, the remainder of such cost to be borne and paid as follows: Twenty per cent by Excelsior Refineries Limited, Forty per cent by the Canadian National Railways and Forty per cent by the Canadian Pacific Railway Company, the cost of maintenance to be borne and paid in equal shares by the Canadian National Railways and the Canadian Pacific Railway Company.

It is the wish of the Board that construction be proceeded with as rapidly as possible.

JOHN D. KEARNEY,
Chief Commissioner.

FRANK M. MacPHERSON,
Commissioner.

JUNE 30, 1952.

ORDER No. 79301

In the matter of the application of the Government of the Province of Alberta and others for the provision of interchange facilities between the railways of the Canadian National Railways and the Canadian Pacific Railway Company at Lloydminster:

File No. 6713-255

MONDAY, the 30th day of June, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner*.

F. M. MacPHERSON, *Commissioner*.

Upon hearing the matter at the sitting of the Board at Lloydminster in the Province of Alberta, in the presence of Counsel for the Province of Alberta, for Excelsior Refineries Limited and Elstro Asphalt Limited, for the Town of Lloydminster and the Lloydminster Board of Trade, for the Canadian National Railways and for the Canadian Pacific Railway Company—

It is ordered

1. That the Canadian Pacific Railway Company construct and maintain an interchange track connecting the railway of the Canadian Pacific Railway Company with the railway of Canadian National Railways in the Town of Lloydminster at the location shown and described as Location No. 1 on Canadian Pacific Railway Lloydminster plan dated Saskatoon, May 20, 1952, filed as exhibit No. 7 at the said hearing.

2. That leave be, and it is hereby, granted to the Canadian Pacific Railway Company to construct and maintain the said interchange track across such public highways as are shown as crossed by the proposed interchange track at Location No. 1 on the said plan, subject to and in accordance with the Standard Regulations of the Board Affecting Highway Crossings.

3. That the Town of Lloydminster contribute \$500.00 towards the cost of construction of the interchange track and that the remainder of such cost be borne and paid as follows: Twenty per cent by Excelsior Refineries Limited, Forty per cent by the Canadian National Railways, Forty per cent by the Canadian Pacific Railway Company, and that the cost of maintenance of the interchange track be borne in equal shares by the Canadian National Railways and the Canadian Pacific Railway Company.

F. M. MacPHERSON,

Commissioner

The Board of Transport Commissioners for Canada.

In the matter of the application of the Canadian Northern Railway Company (C.N.R.) under Section 2 of Subsection 3 of the Canadian National-Canadian Pacific Act, 1933 and all other appropriate statutory provisions for an Order granting it leave to abandon the operation of the following line of railway, namely: the Westport Subdivision in the Province of Ontario between Lyn Junction (mile 0·0) and Westport (mile 40·51), a total distance of 40·51 miles.

File 39310·58

Before:

Mr. HUGH WARDROPE, *Assistant Chief Commissioner.*

Mr. H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Brockville, Ontario, on June 5, 1952.

Appearances:

Mr. A. K. DYSART, for the Canadian National Railways.

Mr. C. G. MACODRUM, Q.C., M.P.P., for Village of Athens, County of Young and Escott, Village of Westport, County of N. Crosby, County of S. Crosby, Rear County of Leeds and Lansdowne.

JUDGMENT

CHASE, Commissioner:

The application for the abandonment of the Westport Subdivision of the Canadian National Railways, hereinafter referred to as the "Branch", was filed with the Board under date of June 15, 1951. As above noted, the Hearing was conducted on June 5, 1952.

A short history of the Branch is as follows: It runs between Lyn Junction (mile 0·0) and Westport (mile 40·51), a distance of 40·51 miles.

It was built by the Brockville, Westport and Sault Ste. Marie Railway Company under Ontario Act 47 V. Chapter 63, 1884, and opened for traffic in 1888. The property was sold under foreclosure in 1903 and a new charter was granted the purchasers under the name of Brockville, Westport and North Western Railway Company. In 1911 the Company defaulted on its bond interest, was purchased by the Canadian Northern Railway interests and now forms part of the Canadian National System. Prior to its acquisition by the Canadian National Railway System, the line extended from Brockville to Westport.

The physical characteristics of the Branch are such that it cannot be used for heavy traffic. About 32 miles of the rail is of the 56-pound type which was laid in 1887 and is in poor condition. The ties are mainly untreated and in poor condition, and the same can be said of the ballast. The maximum grades are: eastbound, 1·6%; westbound, 1·2%.

It operates through a well settled, prosperous farming country serving nine stations. It is paralleled almost for its entirety by a good, paved highway which is open all year round and upon which bus and truck services operate, furnishing service to the communities now served by the railways.

In support of the application the railways submitted exhibits and evidence showing traffic handled, revenues and expenses for the years 1946-51, inclusive, as related to the Branch and the Canadian National System. As the value of a

branch line cannot be fully determined by merely taking into account the revenues and expenditures relating thereto, I will refer mainly to the effect the operation of the Branch has on the Canadian National System as a whole. The information is fully set forth in Exhibit No. 24 reproduced below, where it will be noted that the out-of-pocket expenses for the operation of the Branch were \$159,190, while the System loss was \$83,035.

EXHIBIT No. 24

CANADIAN NATIONAL RAILWAYS

Loss Incurred on Westport Subdivision 1946-1951, Both Inclusive

System Revenues:

	1946	1947	1948	1949	1950	1951
Passenger	\$ 266	\$ 305	\$ 186	\$ 311	\$ 169	\$ 116
Freight	76,984	73,218	73,130	81,577	68,173	63,454
Express	6,994	7,473	8,205	9,777	8,535	10,513
Miscellaneous	2,688	2,520	2,401	2,377	2,118	2,072
	<u>86,932</u>	<u>83,516</u>	<u>83,922</u>	<u>94,042</u>	<u>78,995</u>	<u>76,155</u>

Expenses (Out-of-Pocket)

Branch Line						
Maintenance of Way and Structure	48,144	45,600	52,590	47,243	50,456	49,974
Train Service	38,708	42,434	47,739	49,682	49,682	53,627
Maintenance of Equipment	3,784	4,091	4,843	4,852	4,852	5,466
Station Service	6,692	7,471	9,027	8,705	8,895	11,232
Taxes	32	4,336	4,336	4,336	4,336	4,336
Off-Line Expenses 50 per cent Operation Ratio on freight and express	39,331	37,776	38,064	42,741	35,883	34,555
	<u>136,691</u>	<u>141,708</u>	<u>156,599</u>	<u>157,559</u>	<u>154,104</u>	<u>159,190</u>
System Loss	<u>49,759</u>	<u>58,192</u>	<u>72,677</u>	<u>63,517</u>	<u>75,109</u>	<u>83,035</u>

MONTREAL, QUE., June 3, 1952.

The train service on the Branch consists of a mixed train operating on certain days in the week, and the carload traffic outward and inward for the year 1951 amounted to a total of 329 cars, an average of less than one car a day. No mail is handled and the entire passenger service for the year 1951 amounted to \$25 for the Branch and \$116 for the System as a whole. (See Exhibit No. 14).

For the respondents it was argued that with the completion of the St. Lawrence Seaway, great industrial development would take place in Brockville and the territory adjacent thereto, and in addition there was a strong possibility of a mining industry being established for lead and iron ore in the vicinity of Lyndhurst, and for these reasons the Branch should be kept in operation for a period of at least another five years.

Although the Railway Act lays down no principles upon which the Board should act in granting or withholding approval in applications for abandonment of railway lines, the issue in each case where abandonment is sought resolves itself into a question of whether the loss and inconvenience to the public consequent upon the abandonment outweigh the burden that continued operation of the railway line involved would impose upon the Railway Company. Here I would refer to the decision in *re C.N.R. Tweed Subdivision* reported in Canadian Railway Cases No. 53, at page 142, where approval was given for the abandonment of operation of the Tweed Subdivision between Yarker and Tweed, Ontario, a distance of 33.94 miles, and it is significant to note that in that particular case the system loss was shown as being \$22,203 for the year 1939 and \$14,139 for the first nine months of the year 1940. Also the case *re C.N.R. Lakefield*

Subdivision reported in Canadian Railway Cases No. 66, at page 344. The mileage involved was 16.24 miles. The System's savings, if line abandoned, would amount to \$21,392, and the abandonment was approved. As stated above, in this particular case the system's savings in the event of the approval of the abandonment would be \$83,035 per annum.

I would also refer to the Report of the Royal Commission on Transportation where, commencing at page 134, the following appears:

"On the general question of the future of Canada's railways there are certain matters which must be borne in mind by all those who are concerned in any manner with the solution of railway problems. The most important of these is the fact that motor truck competition has made it increasingly harder, during the last 25 years, for the railways to maintain their position as carriers who ought to be able to give the public in all parts of Canada reasonably equal treatment in respect to tolls. Truck competition in Central Canada has grown to such a size as to eat into the railway's revenues by capturing a great portion of their most profitable traffic and by making it necessary for them to reduce their rates to what looks like a dangerously low point in order to retain some of it. The problem is a difficult one to handle because truck traffic, in by far its largest form, is a subject which is of provincial and not of federal control, and it is further divided between the private trucks carrying the goods of their owners and the trucks that work for hire. Of these two classes of trucks the former is very much the larger.

The figures set out at the beginning of this section show that about 15,000 miles of railway in the United States were abandoned between 1921 and 1948 because of truck competition. So far this competition has had no appreciable effect in reducing railway mileage in Canada, but the near future will show to what extent the railways can meet competition successfully. This question is dealt with more fully in another part of this report. The present tendency of our population to increase, especially in Ontario, and the accompanying increase in business throughout the country will widen the possibilities of this competition and at the same time intensify it.

Up to the present, line and service abandonments by railways have not been looked upon with favour in Canada. It is time now for all concerned to re-consider their attitude in this regard. If the American railways had not been allowed to meet by abandonment, sometimes partial and sometimes total, the difficulties created by highway competition, by the cessation or relocation of industry, by the exhaustion of natural resources, etc. they would undoubtedly have been in a much more unfavourable position than they are today. Our railways should be allowed to practise similar economies in cases where operations are shown to have become substantially unnecessary or to be definitely unprofitable, especially, of course, when it is shown that reasonable service can be assured by other agencies."

Considering the decisions in the cases mentioned above, the conclusions of the Royal Commission on Transportation with respect to the applications for abandonment, the substantial losses to the railways and all that was presented to the Board at the Hearing, I believe that the application for abandonment is justified.

There will be some inconvenience to the public. The argument advanced by the respondents does not, in my opinion, carry much weight. If the St. Lawrence Seaway is completed and industrial activity is increased in the vicinity of Brockville it is unreasonable to assume that it will extend through to Westport or anywhere near there. If the mining development becomes a reality and a rail line is needed, it would only be necessary to build a few miles of track from

Forfar to the place where the ore is said to be found, and there could be no good reason for postponing the abandonment for a period of five years during which the C.N.R. would lose possibly another half million dollars. Other transportation facilities can and are being used. No evidence was submitted to show that the main highway, which practically parallels the railway, is not open for traffic, even in the winter months. There is not now sufficient traffic, present or prospective, to warrant continuance of the service in the face of the operating losses to the railways. In my opinion, the losses to the railways outweigh the loss and inconvenience to the public.

I would grant the application.

H. B. CHASE.

JUNE 18, 1952.

I concur:

HUGH WARDROPE.

ORDER No. 79236

In the matter of the application of the Canadian Northern Railway Company under Section 2 of subsection 3 of the Canadian National-Canadian Pacific Act, 1933, and all other appropriate statutory provisions for an Order granting it leave to abandon the operation of the following line of railway, namely: the Westport Subdivision in the Province of Ontario between Lyn Junction (mile 0·0) and Westport (mile 40·51), a total distance of 40·51 miles:

File No. 39310·58

WEDNESDAY, the 18th day of June, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in the Court House, Brockville, Ontario, on Thursday the 5th day of June, 1952, in the presence of Counsel for the Canadian National Railways and for the Village of Athens, Township of Young and Escott, Village of Westport, Township of North Crosby, Township of South Crosby and Rear Township of Leeds and Lansdowne—

It is ordered that the Canadian Northern Railway Company be, and it is hereby, authorized to abandon the operation of the Westport Subdivision in the Province of Ontario between Lyn Junction (mile 0·0) and Westport (mile 40·51) a total distance of 40·51 miles.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 78759

In the matter of the applications of the United States and Canadian carriers regarding tariffs filed with the Board covering traffic between points in Canada and points in the United States, between points in the United States through Canada, import and export traffic between Canadian ports and stations in Canada, and on traffic to and from Newfoundland and the Islands of St. Pierre and Miquelon:

File No. 39422.2

HON. MR. JUSTICE JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

WEDNESDAY, the 16th day of April, A.D. 1952.

WHEREAS the Interstate Commerce Commission, in EX PARTE No. 175, by its Order dated Washington, D.C., April 11th, 1952 has granted carriers operating in the United States of America further increases in rates and charges, effective, in part, upon less than statutory notice, to be applied (with certain exceptions) as percentage increases in the amount of the total freight charges as shown by the freight bill, including international rates and charges between the United States and Canada so far as they are subject to the jurisdiction of the said Commission;

AND WHEREAS the United States and Canadian carriers have made amended applications, dated December 14, 1951 and December 31, 1951, respectively, to increase simultaneously, on less than statutory notice, their rates and charges between points in Canada and points in the United States, between points in the United States through Canada, also import and export rates between Canadian points and Canadian Atlantic or Pacific ports, and rates between points in Canada and Canadian ports on traffic to or from Newfoundland and the Islands of St. Pierre and Miquelon, to the same extent as authorized by the Interstate Commerce Commission;

AND WHEREAS it is deemed by the Board to be expedient in public interest that the continuity of joint through rates from points in the United States to points in Canada, and vice versa, and the maintenance of the parity of port relationships, should be preserved;

THEREFORE, in pursuance of the powers conferred upon it by Section 325 of the Railway Act, and of all other powers possessed by the Board in that behalf—

It is ordered

1. That the proportions of through rates and charges between the United States and Canada, in both directions, also between points in the United States through Canada accruing within Canada, may be increased to the extent that the through rates and charges shall conform to the increases authorized by the said Order of the Interstate Commerce Commission, except as set out in paragraphs numbered 2 to 4 herein.

2. Petroleum products from United States points to points in Western Canada where the rate factor north of the international boundary at present consists of 5th class mileage rates, the proportion north of the international boundary shall not be increased under this Order.

3. Class rates between points in Western Canada and points in the United States published in Agent Flynn's tariff which are predicated upon combinations on the international boundary, the proportions north of the international boundary shall not be increased under this Order.

4. Rates on international traffic, including coal and coke, which are made by the use of combinations on the international boundary, the factor of such combination within Canada shall not be increased under this Order.

5. Tariff schedules containing import and export rates which, to and from Saint John, West Saint John and Halifax, are on a parity with the rates to and from one or more of the United States ports; and to and from Quebec and Montreal are maintained on differentials under Saint John, West Saint John and Halifax, may be adjusted to the extent necessary to maintain such parity and differential relationships.

6. Tariff schedules containing import and export rates to and from Canadian Pacific Coast ports, which are at present on a parity with the rates to or from one or more United States Pacific Coast ports, may be adjusted to the extent necessary to maintain such parity.

7. Tariff schedules applicable to traffic to Newfoundland and the Islands of St. Pierre and Miquelon which are at present related to the New York standard domestic rates as maxima may be adjusted to maintain the same relationship with the New York standard domestic rates.

8. Tariff schedules applicable to traffic from Newfoundland and the Islands of St. Pierre and Miquelon containing rates which are at present on a parity with, or differentially related to, the rates from one or more of the United States ports may be adjusted to the extent necessary to maintain such parity and relationship.

9. Rates and charges, other than applicable to grain, grain products, grain by-products and articles taking the same rates, and flaxseed, increased under the provisions of this Order may be published and filed to become effective upon not less than fifteen days' notice.

10. The provisions of the Board's Tariff Circular No. 1 may be waived as to volume of supplemental matter, form of tariffs and supplements, to permit the publication and filing of a master tariff of increased rates and charges and connecting link supplements to each tariff connecting such tariff with the master tariff, in respect of all of the provisions of the said Order of the Interstate Commerce Commission and of this Order.

11. All outstanding Orders of the Board contrary to this Order are hereby waived to permit the exercise of the authority hereby granted.

12. The resulting rates and charges, in all respects, shall be subject to complaint and investigation as provided by the Railway Act.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER NO. 79358

In the matter of the application of the Canadian Freight Association, dated June 12, 1952, for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 46:

HON. MR. JUSTICE JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

File No. 40994.35

FRIDAY, the 11th day of July, A.D. 1952

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge tariff C.T.C. (AC) No. 46 be, and it is hereby, approved, and that the date from which the said Supplement No. 3 shall become operative is hereby fixed as June 16, 1952.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER NO. 79359

In the matter of the application of the Canadian Freight Association, dated June 12, 1952, for approval of Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) No. 47:

File No. 40994.36

HON. MR. JUSTICE JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

FRIDAY, the 11th day of July, A.D. 1952

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge tariff C.T.C. (AC) No. 47 be, and it is hereby, approved, and that the date from which the said Supplement No. 1 shall become operative is hereby fixed as June 16, 1952.

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79258 June 24—Authorizing Commissioner F. M. MacPherson, in the absence of Chief Commissioner, Assistant Chief Commissioner, and Deputy Chief Commissioner to sign regulations, Orders, etc.
- 79259 June 25—Authorizing The Bell Telephone Co. to construct telephone lines along certain public highways in County of Kent, Ont.
- 79260 June 25—Authorizing The Bell Telephone Co. to construct telephone lines along certain public highways in County of Kent, Ont.
- 79261 June 25—Authorizing The Bell Telephone Co. to construct telephone lines along certain public highways in County of Kent, Ont.
- 79262 June 25—Authorizing The Bell Telephone Co. to construct telephone lines along certain public highways in County of Kent, Ont.
- 79263 June 25—Authorizing the Northern Petroleum Corp. Ltd. to load crude oil on the siding formerly leased to Eastern Collieries of Bienfait Ltd., at Bienfait, Sask.
- 79264 June 25—Permitting the removal of slow order at T. H. & B. Rly. Co. crossing near Waterford, Ont.
- 79265 June 25—Restricting the speed of trains over C.P.R. crossing north of station at Guelph, Ont.
- 79266 June 25—Permitting the removal of slow order at C.N.R. crossing at mileage 2.62 Matapedia Subd.
- 79267 June 25—Approving location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Winnipegosis, Man.
- 79268 June 25—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at Gimli, Man.
- 79269 June 26—Rescinding Order No. 75303 dated Oct. 3, 1950, re track at 22nd Street, Calgary, Alta. (C.N.R.)
- 79270 June 25—Permitting the removal of slow order at C.N.R. crossing near Tecumseh, Ont.
- 79271 June 25—Permitting the removal of slow order at C.N.R. crossing at mileage 43.71 St. Quentin Subd., C.N.R.
- 79272 June 25—Authorizing the C.N.R. to remove portable station shelter at Cameron Falls, Ont.
- 79273 June 25—Approving proposed location of storage tank, etc., of United Fruit Companies of Nova Scotia Ltd., near D.A.R. Co. tracks at Middleton, N.S.
- 79274 June 25—Authorizing the R. M. of St. Louis No. 431, Sask., to construct highway across C.N.R. at mileage 82.0 Cudworth Subd.
- 79275 June 25—Ordering that agreed charges approved by Order No. 59568, dated Aug. 29, 1940, with increases authorized by Order No. 70480, dated April 8, 1948, be fixed for transport by said rail carriers of petroleum products as described in paragraph B of the said agreed charge for Sterling Fuels from Port Stanley, Ont: etc.
- 79276 June 25—Authorizing The T. H. & B. Rly. Co. to make changes to the interlocker at crossing of C.N.R. and Victoria Ave. Hamilton, Ont.
- 79277 June 25—Authorizing the C.N.R. to make changes to the interlocking plant at crossing of C.P.R. at Calgary, Alta.
- 79278 June 25—Approving By-law No. 449 of the City of Outremont, Que. re sounding of engine whistle.
- 79279 June 27—Amending Order No. 79156, dated June 7, 1952, re C.N.R. crossing of Hunter St., Hamilton, Ont.
- 79280 June 26—Authorizing the C.N.R. to operate the bridges at certain mileages on their Gladstone Subd., Man.
- 79281 June 26—Permitting the removal of slow order at C.P.R. crossing east of station at Hargrave, Man.
- 79282 June 26—Approving operation of C.P.R. trains over private siding of Mount Royal Paving & Supplies, Ltd., County of Berthier, Que.
- 79283 June 26—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Broadview Subd., Sask.
- 79284 June 26—Authorizing the C.N.R. to make changes to interlocking at crossing of C.P.R. at St. Boniface, Man.
- 79285 June 26—Authorizing the C.N.R. to operate their trains over interlocking at crossing of C.P.R. at mileage 36.6 Reford Subd., on its railway.
- 79286 June 26—Restricting the speed of trains at C.P.R. crossing of Eastern Ave., Toronto, Ont.
- 79287 June 26—Authorizing the Newfoundland Dept. of Public Works to construct the highway across the C.N.R. at mileage 2.84 Bonavista Subd., of the railway.
- 79288 June 26—Approving plan showing protection as installed at crossing of the T. H. & B. Rly. and the highway west of St. Ann's station, Ont.

- 79289 June 26—Approving under Maritime Freight Rates Act tolls filed by the C.P.R. under Sec. 9.
- 79290 June 26—Amending Order No. 78757, dated April 15, 1952, approving tolls published in Tariff C.T.C. 1210 filed by the D. A. Rly. Co.
- 79291 June 26—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under Secs. 3 and 9.
- 79292 June 26—Approving clearances of loading platform adjacent to private siding serving Mindamer Metals Corp. Ltd., at St. Peters, N.S.
- 79293 June 26—Restricting the speed of trains over C.N.R. crossing of Albert St., Regina, Sask.
- 79294 June 26—Permitting the removal of slow order at C.N.R. crossing of Norwich Avenue, Woodstock, Ont.
- 79295 June 26—Amending Order No. 78460, dated March 5, 1952, re appln. of Northern Transportation Co. (1947) Ltd. for a licence under Sec. 10 of The Transport Act.
- 79296 June 26—Amending Order No. 78449, dated March 4, 1952, re appln. of Hudson's Bay Co. for a licence under Sec. 10 of the Transport Act, 1938.
- 79297 June 26—Authorizing the C.N.R. to use bridge at mileage 17.7 Oakland Subs., Man.
- 79298 June 26—Approving plans showing location of Trans Mountain Oil Pipe Line Co. pipe line within Jasper National Park, Alta.
- 79299 June 26—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line in County of Frontenac, Ont.
- 79300 June 26—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line from a point in County of Grenville to a point in the County of Leeds, Ont.
- 79301 June 30—Directing that C.P.R. construct an interchange track connecting the Rly. of the C.P.R. with the C.N.R. in Lloydminster.
- 79302 July 2—Authorizing C.P.R. to remove station agent and appoint a caretaker agent at Westboro, Ont.
- 79303 July 2—Approving proposed location of connecting pipe lines, etc., for Imperial Oil Co. near Chesapeake and Ohio Rly. at Windsor, Ont.
- 79304 July 2—Granting permission to Husky Oil & Refinery, Ltd., to load crude oil from tank truck to tank car at Hoosier, Sask., Mileage 90.4 Dodsland Subd., C.N.R.
- 79305 July 2—Permitting removal of slow Order at C.P.R. second public crossing east of Atha Road Shelter, Ont., Mileage 75.9 Peterboro Subd.
- 79306 July 2—Authorizing C.P.R. to remove existing mechanical interlocking at crossing of C.P.R. and C.N.R. near Rosetown, Sask., mileage 41.1 Kerrobert Subd., of C.P.R. and mileage 66.1 Rosetown Subd. of C.N.R.
- 79307 July 2—Approving proposed location of connecting pipe lines, etc. of C.N.R. at mileage 101.85 Sydney Subd. N.S.
- 79308 July 2—Approving proposed location of connecting pipe lines etc., of Imperial Oil Ltd. near C.P.R. tracks at Cowansville, Que.
- 79309 July 3—Sanctioning and approving operation of C.P.R. over private siding in Sherbrooke, Que. at mileage 68.9 Sherbrooke Subd.
- 79310 July 3—Permitting removal of slow Order at the Montreal & Southern Counties Rly. crossing of St. Charles St., Granby, Que., mileage 46.55 Granby Subd.
- 79311 July 3—Directing that no engine, car or train shall pass over C.N.R. crossing of Orleans Ave., Montreal, Que., Mileage 9.57 Longue Pointe Subd., at a speed greater than ten miles an hour.
- 79312 July 3—Approving under the Maritime Freight Rates Act tolls published in item 121A of Supplement No. 12 to Tariff C.T.C. No. 1204, filed by the Dominion Atlantic Railway under Sec. 9.
- 79313 July 3—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Sec. 13.
- 79314 July 3—Approving proposed location of connecting pipe lines etc. of Johnson's Co. Ltd. near Quebec Central Rly. Co.'s tracks at Mileage 64.6 Quebec Subd., Black Lake, Que.
- 79315 July 3—Approving location and details of freight and passenger shelter proposed to be erected by Grand Trunk Pacific Rly. at Chilako, B.C.
- 79316 July 3—Authorizing Quebec Hydro-Electric Commission to construct a double circuit 120-KV transmission line on and along right of way of C.N.R. between Saraguay and Montreal-North, Que.

- 79317 July 4—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and La Corporation de Telephone de Quebec.
- 79318 July 4—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and the Municipality of Village of Magnetawan.
- 79319 July 4—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Telephone d'Yamaska Limitee.
- 79320 July 4—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Corporation of the Township of Monck.
- 79321 July 4—Approving Appendix and Supplement to Traffic Agreement between The Bell Telephone Co. and The Chapleau Telephone System Ltd.
- 79322 July 4—Approving Supplement to Service Station Contract between The Bell Telephone Co. and The Halton Telephone Co. Ltd.
- 79323 July 4—Authorizing the C.P.R. to construct a siding to serve the Runnymede Iron & Steel Ltd. across Raybould St., Township of York, Ont.
- 79324 July 4—Approving certain new signalling facilities of T. H. & B. Rly. Co. near Coyle, etc.
- 79325 July 4—Approving proposed location of storage tanks, etc., of Weyburn Co-operative Assoc. Ltd., near C.N.R. tracks at Weyburn, Sask.
- 79326 July 4—Rescinding Order No. 78872, dated May 2, 1952, re location of crude oil loading facilities for a temporary period at Bashaw, Alta.
- 79327 July 7—Restricting the speed of trains over C.N.R. crossing west of town limits at Simcoe, Ont.
- 79328 July 7—Approving under Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominion Atlantic Rly. Co. under Sec. 9.
- 79329 July 7—Permitting the removal of slow order at C.N.R. crossing east of Brockville, Ont.
- 79330 July 7—Authorizing the C.N.R. to reconstruct the undercrossing bridge at mileage 81.5 Glenavon Subd. Sask.
- 79331 July 7—Authorizing the Quebec Dept. of Roads to relocate the Hemmingford-Laprairie Road across the C.N.R. from mileage 16.70 to mileage 16.74 Hemmingford Subd., Que.
- 79332 July 7—Authorizing the R.M. of Excelsior No. 166, Sask. to re-open the crossing of the highway and the C.P.R. at Waldeck, Sask.
- 79333 July 7—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and the Telephone System of the Municipality of the Township of McKellar.
- 79334 July 7—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The Commissioners for the Telephone System of the Municipality of Township of McKellar, Ont.
- 79335 July 7—Approving changes in C.P.R. signals near Vaudreuil, Que.
- 79336 July 8—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line Parish of Ste. Rose to Parish of St. Joseph du Lac, Que.
- 79337 July 8—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under Secs. 3 and 9.
- 79338 July 9—Permitting the removal of slow order at Northern Alberta Rlys. Co. crossing near station at Morinville, Alta.
- 79339 July 9—Requiring the C.P.R. to install protection at crossing of Parkdale Ave., Ottawa, Ont.
- 79340 July 9—Permitting the removal of slow order at C.N.R. crossing at Denny, Sask.
- 79341 July 9—Approving plan showing protection as installed at interlocking plant at crossing of C.N.R. and C.P.R. at Weyburn, Sask.
- 79342 July 9—Permitting the removal of slow order at the Algoma Central & Hudson Bay Rly. Co. crossing of Wellington St., Sault Ste. Marie, Ont.
- 79343 July 9—Permitting the removal of slow order at C.P.R. crossing near Tuttle, Alta.
- 79344 July 9—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near tracks of Northern Alberta Rlys. Co. at Grimshaw, Alta.
- 79345 July 9—Approving proposed location of pipe line at Patron Oil Co. Ltd., near C.N.R. at Humboldt, Sask.
- 79346 July 9—Approving proposed location of storage tank of Houdaille-Hershey of Canada, Ltd., near C.N.R. (Oshawa Railway Co.) tracks at Oshawa, Ont.
- 79347 July 9—Approving proposed location of storage tanks of Shell Oil Co. of Canada, Ltd., near tracks of L. & P.S. Rly. at London, Ont.

- 79348 July 9—Approving proposed location of storage tanks, etc., of the C.N.R. near their tracks at Granby, Que.
- 79349 July 9—Authorizing the Saskatchewan Dept. of Highways and Transportation to widen Victoria Ave. at intersection of Park St. where it crosses the C.N.R., Regina, Sask.
- 79350 July 9—Approving proposed location of storage tank, etc., of Gaspé Gas Utilities Inc., near C.N.R. tracks at Grande Rivière, Que.
- 79351 July 9—Approving proposed location of storage tanks, etc., of the Algoma Central & Hudson Bay Rly. Co. near its tracks at Brient, Ont.
- 79352 July 9—Authorizing the C.N.R. to operate their trains through the interlocking at crossing of their railway at West Tower, Portage la Prairie, Man.
- 79353 July 10—Approving under the Maritime Freight Rates Act tolls filed by the Canadian Freight Association under Secs. 3 and 9.
- 79354 July 10—Permitting the removal of slow order at C.P.R. crossing of Wilson St., at Perth, Ont.
- 79355 July 10—Permitting the removal of slow order at C.P.R. crossing at Boldt, Sask.
- 79356 July 11—Authorizing the C.N.R. to operate their trains through the interlocking at junction of Harte and Gladstone Subdivisions at East Tower, Portage la Prairie, Man.
- 79357 July 11—Approving discontinuance of Vancouver and Lulu Island Rly. Co., C.P.R. and British Columbia Electric Rly. Co. Ltd. passenger service between Fourth Ave. station and Marpole station, B.C.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

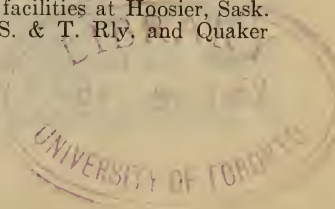
August 15, 1952

No. 10

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79358 July 11—Approving Supplement No. 3 to Agreed Charge C.T.C. (AC) No. 46 upon application of Canadian Freight Association.
- 79359 July 11—Approving Supplement No. 1 to Agreed Charge C.T.C. (AC) No. 47 upon application of Canadian Freight Association.
- 79360 July 11—Restricting the speed of trains over C.N.R. crossing of Ellice Avenue, St. James, Manitoba.
- 79361 July 11—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited, near C.P.R. track at Ste. Agathe, Quebec.
- 79362 July 11—Approving under Maritime Freight Rates Act tolls filed by Canadian Freight Association under Sections 3 and 9.
- 79363 July 11—Authorizing the Alliance Paper Mills to construct two tunnels under the C.N.R. tracks in Merritton, Ontario.
- 79364 July 11—Permitting the removal of slow order at C.P.R. crossing second east of station at Redvers, Saskatchewan.
- 79365 July 11—Approving proposed location of storage tanks, etc., of Shell Oil Company Limited, near tracks of C.N.R. at Chandler, Quebec.
- 79366 July 11—Approving Article X of the by-laws of the Railway Express Agency, Inc., authorizing the General Traffic Manager and others to issue tariffs.
- 79367 July 11—Rescinding Order No. 78470, dated March 6, 1952, re application of the C.N.R. for authority to reconstruct their bridge over the Muskoka River, Ontario, at mileage 34.5 Huntsville Subdivision.
- 79368 July 11—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Tompkins, Saskatchewan.
- 79369 July 11—Authorizing the C.P.R. to construct a branch line to its ballast pit near Brandon, Manitoba.
- 79370 July 11—Amending Order No. 77282, dated August 31, 1951, re plan submitted to C.N.R. by Northwell Operators Ltd., showing location of crude oil loading facilities at Armena, Alta.
- 79371 July 11—Approving proposed location of storage tank, etc., of the C.N.R. near their tracks at Point Tupper, N.S.
- 79372 July 11—Permitting the removal of slow order at C.N.R. crossing of St. Joseph Road, Charlesbourg, Quebec.
- 79373 July 11—Amending Order No. 79304, dated July 2, 1952, re application of C.N.R. on behalf of Husky Oil and Refining Ltd., re loading facilities at Hoosier, Sask.
- 79374 July 14—Restricting the speed of trains at crossing of N.S. & T. Rly. and Quaker Road at Scanlans, Ont.



- 79375 July 14—Relieving the C.P.R. from erecting right-of-way fencing between mileage 5.19 and mileage 8.00, Megantic Subd. Que.
- 79376 July 14—Authorizing the Canadian Northern Railway Company to construct a branch line in Parish of St. James, Winnipeg, Man.
- 79377 July 14—Restricting the speed of trains at C.P.R. crossing near Dafoe, Sask.
- 79378 July 14—Approving proposed location of storage tank of McColl-Frontenac Oil Co. Ltd., near tracks of C.N.R. at Canora, Sask.
- 79379 July 14—Approving under Maritime Freight Rates Act tariffs filed by the Canadian Freight Association under Secs. 3 and 9.
- 79380 July 14—Authorizing the City of Granby, Que., to construct Ste. Therese St., across the Montreal & Southern Counties Railway, Granby, Que.
- 79381 July 14—Dismissing application of Vancouver Island Ratepayers' Association for an Order directing the Esquimalt & Nanaimo Railway to increase its train service, etc.
- 79382 July 15—Approving proposed location of storage tanks of Imperial Oil Ltd., near C.N.R. tracks at Cobourg, Ont.
- 79383 July 15—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Co. under Sec. 9.
- 79384 July 15—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Commissioners for the Telephone System of the Municipality of Township of Manvers.
- 79385 July 15—Approving proposed location of connecting pipe of the C.N.R. near their tracks at Humbermouth, Newfoundland.
- 79386 July 15—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The Masham Telephone Co. Que.
- 79387 July 15—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Riviere Chicot, Prov. of Quebec.
- 79388 July 15—Approving proposed location of storage tanks of Imperial Oil Ltd. near C.N.R. tracks at Ashern, Man.
- 79389 July 15—Authorizing the C.N.R. to install protection at Bogleman's Crossing, Truro, Nova Scotia.
- 79390 July 15—Approving plan showing location of Trans-Mountain Oil Pipe Line Co. pipe line from Western boundary of Mount Robson Park to Jackman, B.C.
- 79391 July 15—Authorizing the C.N.R. to construct a railway track upon and across Boyd St., Sarnia, Ont.
- 79392 July 15—Approving proposed location of storage tanks, etc., near C.N.R. tracks at Shellbrook, Sask.
- 79393 July 15—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near tracks of C.N.R. at Aylsham, Sask.
- 79394 July 15—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Riviere des Milles Isles, Prov. of Quebec.
- 79395 July 15—Permitting the removal of slow order at C.N.R. crossing at mileage 73.05 Mulgrave Subd.
- 79396 July 15—Approving proposed location of tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Watrous, Sask.
- 79397 July 15—Amending Order No. 41001, dated June 28, 1928, re C.P.R. crossing just west of Myrtle Station, Ont.
- 79398 July 15—Authorizing The Bell Telephone Co. to construct its lines of telephone along certain portion of highway in Township of Chatham, Ont.
- 79399 July 15—Authorizing The Bell Telephone Co. to construct its lines of telephone along certain portion of highway in Township of Chatham, Ontario.
- 79400 July 15—Authorizing The Bell Telephone Co. to construct its lines of telephone along certain portion of highway in Township of Chatham, Ont.
- 79401 July 15—Authorizing The Bell Telephone Co. to construct its line of telephone along certain portion of highway in Township of Chatham, Ont.
- 79402 July 15—Approving proposed location of pipe line of the Nova Scotia Power Commission near C.N.R. tracks near Port Hood, N.S.
- 79403 July 15—Amending Order No. 79081, dated May 30, 1952, re application of Alberta Department of Highways for authority to widen Provincial Highway No. 1 at mileage 6.0 Langdon Subd. (C.P.R.).
- 79404 July 15—Restricting the speed of trains over C.P.R. crossing of Frontenac St., Megantic, Que.
- 79405 July 15—Permitting the removal of slow order at C.N.R. crossing near station at Ayrness, Que.
- 79406 July 15—Approving plan showing construction of the highway across C.N.R. Goderich, Ontario.
- 79407 July 15—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Decker, Man.

- 79408 July 15—Requiring the C.P.R. to install protection at crossing of Industrial St., Chatham, Ont.
- 79409 July 16—Approving plan showing location of Trans-Mountain Oil Pipe Line Co. pipe line from Blue River, B.C. to McMurphy, B.C.
- 79410 July 17—Authorizing the Canadian Northern Railway Company to construct across West Avenue, Lloydminster, Alta., two additional tracks.
- 79411 July 17—Authorizing the C.N.R. to use wooden trestle at mileage 37.3 Avonlea Subd.
- 79412 July 17—Relieving the C.N.R. from erecting fencing between mileage 2.9 and mileage 3.4 Rhein Subd., Sask.
- 79413 July 17—Restricting the speed of trains over C.N.R. crossing near station at Fort William, Ont.
- 79414 July 17—Authorizing the C.P.R. to make changes in signal protection at crossing at Marden, Ont.
- 79415 July 17—Authorizing the Grand Trunk Pacific Rly. Co. to construct a line across 127th Avenue, Edmonton, Alta.
- 79416 July 17—Authorizing the C.N.R. to use bridge over Tsinkut Creek, mileage 61.3 Nechako Subd.
- 79417 July 17—Authorizing the Alberta Dept. of Highways to construct an underpass at mileage 0.16 Camrose Subd. Alta.
- 79418 July 17—Approving under Maritime Freight Rate Act tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 79419 July 18—Approving proposed location of storage tanks of John D. Oil Ltd., near C.N.R. tracks at St. Boniface, Man.
- 79420 July 18—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Bethesda & Stouffville Telephone Co. Ltd.
- 79421 July 18—Approving proposed location of storage tank near C.N.R. track at Burns Lake, B.C.
- 79422 July 18—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near tracks of C.N.R. at Willow Bunch, Sask.
- 79423 July 21—Permitting the removal of slow order at C.P.R. crossing near station at Salmon Arm, B.C.
- 79424 July 21—Approving plan showing protection as installed at C.N.R. crossing of 95th Street, Edmonton, Alta.
- 79425 July 21—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and the Lansdowne Rural Telephone Co. Ltd.
- 79426 July 21—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Eastern Townships Telephone Co.
- 79427 July 21—Authorizing C.N.R. and C.P.R. to operate their trains through interlocking at crossing of their railways at mileage 2.3 Wilkie Subd. of C.N.R. and mileage 4.84 Govel Subd. of C.N.R.
- 79428 July 22—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Cumberland Railway & Coal Co. under Sec. 9.
- 79429 July 22—Authorizing the C.N.R. to construct a track across Water St. Chatham, N.B.
- 79430 July 22—Permitting the removal of slow order at Dominion Atlantic Rly. Co. crossing near station at Brickton, N.S.
- 79431 July 22—Approving plan showing changes to signals at interlocking plant at crossing of C.P.R. and the St. Lawrence & Adirondack Rly. at Adirondack Junction, Quebec.
- 79432 July 22—Approving Traffic Agreement between The Bell Telephone Co. and Minister of National Defence.
- 79433 July 22—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and Joseph Audet, Proprietor of La Compagnie de Telephone de Spring Hill.
- 79434 July 22—Approving Traffic Agreement between The Bell Telephone Co. and La Cooperative de Telephone de Spring Hill.
- 79435 July 22—Authorizing the C.N.R. to use jointly with the C.P.R. at Farnham, Que., certain facilities.
- 79436 July 22—Authorizing the Aluminum Company of Canada Ltd., to construct a pipe line for sulphuric acid across the C.N.R. at Arvida, Que.
- 79437 July 22—Authorizing the Dept. of Public Works for British Columbia to reconstruct the overhead bridge crossing the C.P.R. at mileage 15.1 Shuswap Subd., B.C.
- 79438 July 22—Authorizing the Township of Nottawasaga, Ont., to re-locate the highway across the C.N.R. Township of Nottawasaga, Ont.
- 79439 July 22—Declaring the Township of Stamford to be an urban municipality within the meaning of subsection 3 of Section 308 of The Railway Act.
- 79440 July 22—Authorizing the Dept. of Highway for Prov. of Alberta to re-locate crossing at mileage 160.06 Willingdon Subd., C.P.R.
- 79441 July 23—Relieving the C.P.R. from erecting cattle guards at certain crossings of its railway and highway Napinka and Boissevain Subdivisions, Province of Manitoba.

- 79442 July 23—Relieving the C.P.R. from erecting cattle guards at certain crossings of its railway and highway Napinka and Boissevain Subdivisions, Province of Manitoba.
- 79443 July 23—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 79444 July 25—Approving proposed location of storage tanks, etc., of Canadian Oil Co. Ltd. near tracks of Quebec Central Rly. Co. at Thetford Mines, Que.
- 79445 July 25—Approving proposed location of storage tanks, etc., of Crown Diamond Point Co. Ltd., near C.P.R. track at Outremont, Que.
- 79446 July 25—Authorizing the C.N.R. to use the trestle at mileage 73.8 Rapid City Subd., Manitoba.
- 79447 July 25—Authorizing The Bell Telephone Co. to construct its lines along public highway in County of Kent, Ont.
- 79448 July 25—Requiring the C.P.R. to install protection at mileage 65.08 Ste. Agathe Subd., Prov. of Quebec.
- 79449 July 25—Authorizing the C.N.R. to use trestle at mileage 52.7 Rossburn Subd., Prov. of Man.
- 79450 July 25—Permitting the removal of slow order at C.N.R. crossing near station at Elie, Man.
- 79451 July 25—Permitting the removal of slow order at C.N.R. crossing near station at Spyhill, Sask.
- 79452 July 25—Permitting the removal of slow order at C.N.R. crossing west of Caledonia, Ontario.
- 79453 July 25—Approving Appendix A to Traffic Agreement between The Bell Telephone Co. and Compagnie de Telephone de la Petite Nation.
- 79454 July 25—Requiring the C.N.R. to install protection at crossing of Garson Road, mileage 1.3 Sudbury Terminals, Ont.
- 79455 July 25—Approving Supplement to Service Station contract between The Bell Telephone Co. and The Commissioners for the Telephone System of the Municipality of Township of Widdifield.
- 79456 July 25—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Burnt River Telephone Co. Ltd.
- 79457 July 25—Approving proposed location of storage tanks, etc., of the Standard Oil Co. of B.C. near C.P.R. tracks at Vernon, B.C.
- 79458 July 25—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line Township of Osnabruk to Township of Williamsburg, Ont.
- 79459 July 25—Approving plans, etc., showing location of the Trans-Northern Pipe Line Co. pipe line from Township of Ernestown to Township of Thurlow, Ont.
- 79460 July 25—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line from Township of Hamilton to Township of Clarke, Ont.
- 79461 July 25—Approving re-location of C.P.R. station to be erected at Medonte, Ont.
- 79462 July 25—Permitting the removal of slow order at C.P.R. crossing near Hillhead, Ont.
- 79463 July 25—Approving profile showing re-arrangement of automatic signals on portion of Heron Bay Subd., Ont.
- 79464 July 25—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.N.R. tracks at Lamont, Alta.
- 79465 July 25—Approving proposed location of pipe lines, etc., of Canadian Oil Companies, Ltd., near C.N.R. tracks at Lindsay, Ont.
- 79466 July 25—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Geraldton, Ont.
- 79467 July 25—Permitting the removal of slow order at C.N.R. crossing near station at Harcourt, N.B.
- 79468 July 25—Authorizing the Alberta Dept. of Highways to widen the highway at crossing of Canadian Northern Rly. Co. tracks at mileage 18.87 Drumheller Subd.
- 79469 July 25—Permitting the removal of slow order at C.N.R. crossing near Riviere Beaudette Station, P.Q.
- 79470 July 25—Approving Agreed Charge C.T.C. (AC) No. 48 between C.N.R., C.P.R., N.A. Rlys. Co. Winnipeg River Rly Co., Imperial Oil Ltd., and North Star Oil Ltd., on petroleum products.
- 79471 July 28—Approving By-law of Township of East York, Ont., re sounding of engine whistles.
- 79472 July 28—Authorizing the Alberta Dept. of Highways to reconstruct the overhead bridge at mileage 2.6 Crowsnest Subd., C.P.R.
- 79473 July 28—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Moira River, Township of Thurlow, Ont.
- 79474 July 28—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Napanee River, Ont.
- 79475 July 28—Approving plans showing location of Trans-Mountain Oil Pipe Line Co. pipe line in Municipalities of Matsqui and Langley, B.C.

- 79476 July 29—Approving operation of C.P.R. trains over private siding serving the Dominion Government Stevenson Airport in Mun. of St. James, Man.
- 79477 July 29—Authorizing The T.H. & B. Rly. Co. to operate its trains through portion of interlocker Chatham & Main Sts., etc., Hamilton, Ont.
- 79478 July 29—Authorizing the C.N.R. and the Abitibi Power & Paper Co. Ltd., to operate their trains over crossing near Stimson Station, Ont.
- 79479 July 30—Authorizing the C.N.R. to reconstruct the bridge over Pipestone Creek, Man.
- 79480 July 30—Approving standard Plan No. G-120A and specifications for timber trestle bridges of the Northern Alberta Rlys. Co.
- 79481 July 30—Approving operation of The Algoma Central & Hudson Bay Rly. Co. trains over private sidings of the Roddis Lumber & Veneer Co. City of Sault Ste. Marie, Ont.
- 79482 July 30—Authorizing the C.N.R. to reconstruct the bridge across Minnewaskta Creek, Man., mileage 42.5 Miniota Subd.
- 79483 July 30—Approving plan showing signal protection as installed between Viking and Demay Subdivisions, near Ryley, Alta. (C.N.R.)
- 79484 July 30—Permitting the removal of slow order at N.Y.C. Rly. Co. crossing near Kanawaki, Que.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, September 1, 1952

No. 11

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Vancouver Island Ratepayers' Association for an Order directing the Esquimalt and Nanaimo Railway to increase its train service to and from Victoria and Alberni, to and from Victoria and Courtenay; to relocate the passenger terminal at Nanaimo at the CPR steamship docks, to prepare a work programme to improve its right of way to the standard of modern fast passenger traffic and to extend its railway from Courtenay to Campbell River and Duncan Bay, B.C.

File 27563.265

Appearances:

GEORGE E. BONNER, President, Vancouver Island Ratepayers' Association.

GEORGE WYNDLOW, representing Ratepayers' Association of North Oyster and Cedar Ratepayers' Association.

J. A. WRIGHT, for the Esquimalt and Nanaimo Railway and the Canadian Pacific Railway Company.

JUDGMENT

BY THE BOARD:

This application was heard on June 2nd, 1952, in the Court House, Victoria, B.C., and deals with several matters affecting the operation of the Esquimalt and Nanaimo Railway, each of which will be dealt with separately.

The first is a request for improved train service which would reinstitute former trains No. 3 and 4, which were removed from service in February, 1931, at the time of the institution of bus service by the Vancouver Island Coach Lines and freight service by the Island Freight Services Limited. These firms operate in conjunction with the Esquimalt and Nanaimo Railway, an interest in these two highway lines being acquired by the Canadian Pacific Railway. This left trains No. 1 and 2, which service requires passengers to remain overnight in Victoria, the train arriving in Victoria at 5:10 PM and leaving next morning at 10:30 AM for up-Island points. The applicants feel that this railway service,

working in conjunction with the bus and truck service, is detrimental to the economy of Vancouver Island. They feel that if a bus and truck service were operated in competition with the railway it would result in a much improved service on the railway, that it would mean much improved equipment and road bed, with the result that the public would patronize the railway as it is least affected by weather conditions, as well as being a most comfortable and a safer form of travel.

Another complaint was the inability of the milk shipper to use the present train service for the transportation of his commodity, with the result that it is necessary to depend on trucks, which would not be the case if it were possible to ship into Victoria each morning.

The applicants pointed out that the railway was losing a lot of passenger and tourist business which could be secured if the Canadian Pacific Railway and the Canadian National Railways on the Island would co-operate, as suggested by Appendix B of the application. This shows the Esquimalt and Nanaimo Railway operating from Victoria to Port Alberni and the Canadian National Railways operating from Victoria to a point twelve miles south of Port Alberni, which, if connected, would complete a circuitous route of scenic beauty with no competition from motor travel.

It was also stated that since trains No. 3 and 4 have been taken off, in February, 1931, the population of Vancouver Island has grown from 110,000 to approximately 250,000. This should also afford more rail business, it being pointed out that the railway was making no effort to build up its patronage, with the resultant decline in revenue. It was also felt that the returns since 1906 in subsidy should be considered as revenue. In this connection we would point out that the matter of revenue from subsidies is not within the jurisdiction of this Board.

The Association, in their efforts to show that the reinstatement of Trains No. 3 and 4 would increase the revenue, operated a special train on Sunday, August 19, 1951, which was a success from a revenue point of view. However, later, a ski special did not pay, although the return fare was less than fifty per cent of the regular charge.

As mentioned above, the present train service has been in effect since 1933. It consists of a daily except Sunday passenger train which leaves Victoria at 10:30 AM, arriving at Courtenay at 5:20 PM, returning from Courtenay at 10:40 AM and arriving in Victoria at 5:10 PM, with the Port Alberni Subdivision connecting with these trains at Parksville. This service is augmented by the Vancouver Island Coach Lines, a subsidiary of the Esquimalt and Nanaimo Railway operating six daily passenger buses out of Victoria for Nanaimo between the hours of 9:00 AM and 8:45 PM. Three of these runs provide connections at Nanaimo or operate directly through to Port Alberni, and two of them operate through to Campbell River. A similar service is operated in the opposite direction. The Island Freight Services Limited, which is also a subsidiary of the Esquimalt and Nanaimo Railway, operates a freight and express service out of Victoria twice daily except Sunday and holidays, for Nanaimo and Duncan and return. Other points along the Esquimalt and Nanaimo Railway route are also serviced on a daily except Sunday basis.

The railway submitted evidence to show that the trains are presently handling about fifty passengers per train, with the heaviest travel at the week-end. Passenger business has decreased notwithstanding the fact the population of the Island has increased from 110,000 in 1931 to 250,000 at the last census, indicating the trend is to other means of transportation, especially by private autos and buses. According to evidence filed, the total number of passengers handled in the year 1937 was 70,752. During the war years this number increased but in the year 1951 only 35,181 passengers were handled, which

represents a decline of approximately 50 per cent and, in the face of this trend, there would seem to be no reason why the railways should be expected to increase their passenger service.

Regarding the applicants' contention that the right-of-way should be improved to provide faster speeds for trains, it is the opinion of the Board that the right-of-way is already in good condition and of a standard sufficient to keep the traffic offering today moving, and, in view of the many stops, no necessity is seen for trying to increase the speed of these trains.

It was also brought out in the evidence that the Island highway had in the last ten years been to a large degree reconstructed and that the licenses for private motor cars had increased. These facts indicate that the tendency is to keep travel on the highways rather than by train.

Airlines, particularly from the north end of the Island, are carrying a great many passengers who otherwise would come down the Island by train and thence by boat to Vancouver. Another feature which favours bus and truck operation is the fact the highways pass through the centre of the towns while the railway passes, in some localities, on the outskirts.

The applicant also requested the re-location of the passenger terminal at Nanaimo. While it is true that the railway intend to install a track to serve barges at Nanaimo in close proximity to the new Nanaimo terminal thereby providing rail connection to the terminal for the purpose of handling freight traffic and it would be possible to operate passenger trains into the terminal and back out again, we do not see where this would assist to increase passenger train patronage in view of the facilities now offered by the Vancouver Island Coach Lines on the Vancouver Island terminal property.

The question of the proposed extension of the railway line from Courtenay to Campbell River and Duncan Bay—it will be noted the railway company intend to give consideration to extending its railway line into this area as soon as there is sufficient development to justify such extension—is a matter in which the Board has no jurisdiction and thus no power to direct such an extension.

There was no concrete evidence submitted in support of the application for increase in passenger train service other than that the applicants based their request on the business expected to be developed.

The statement by the applicants that in fulfilling the rights of the people with the Esquimalt and Nanaimo Railway agreement there must be co-operation and understanding on the part of the Company, is also a matter not within the jurisdiction of the Board.

We are, therefore, of the opinion that with conditions as they are today both the present train service, combined with the service augmented by the Vancouver Island Coach Lines and the Island Freight Services Limited, are sufficient, and do not justify the re-institution of Trains No. 3 and 4, these three companies providing sufficient service on the Island at this time.

We would, therefore, dismiss the application. Order to issue accordingly.

JOHN D. KEARNEY,
A. SYLVESTRE,
FRANK M. MACPHERSON,
H. B. CHASE.

ORDER NO. 79381

OTTAWA, July 11, 1952.

In the matter of the application of the Vancouver Island Ratepayers' Association for an Order directing the Esquimalt and Nanaimo Railway to increase its train service to and from Victoria and Alberni, to and from Victoria and Courtenay; to relocate the passenger terminal at Nanaimo at the Canadian Pacific Railway Company's docks, to prepare a work programme to improve its right of way to the standard of modern fast passenger traffic and to extend its railway from Courtenay to Campbell River and Duncan Bay, British Columbia:

File No. 27563-265

MONDAY, the 14th day of July A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in the Court House, Victoria, British Columbia, on June 2, 1952, in the presence of representative of the Vancouver Island Ratepayers' Association and of the Ratepayers' Association of North Oyster and Cedar Ratepayers' Association and Counsel for the Esquimalt and Nanaimo Railway and the Canadian Pacific Railway Company—

It is ordered that the application be, and it is hereby, dismissed.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 79545

In the matter of the application of the Canadian Freight Association for the elimination of Imperial Oil Limited as a party shipper from Agreed Charge Tariff C.T.C. (AC) No. 41:

File No. 40994-31

FRIDAY, the 8th day of August, A.D. 1952

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Imperial Oil Limited and Canadian National Railway Company, Canadian Pacific Railway Company and Northern Alberta Railways Company agreed to the elimination of Imperial Oil Limited as a party shipper from Agreed Charge Tariff C.T.C. (AC) No. 41—

It is ordered that the Board's approval of Agreed Charge Tariff C.T.C. (AC) No. 41 in so far as its approval applied to the said Agreed Charge between Imperial Oil Limited and the railways parties thereto be, and it is hereby, withdrawn as from April 1, 1952.

A. SYLVESTRE,
Deputy Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79485 July 30—Authorizing the Northern Alberta Rlys. Co. to reconstruct its timber trestle at mileage 131·5 Grande Prairie Subdivision.
- 79486 July 30—Authorizing the C.N.R. to reconstruct the bridge over the Conestogo River, mileage 61·2 Fergus Subdivision.
- 79487 July 30—Approving proposed location of storage tanks, etc., of Dominion Tar & Chemical Company Limited near C.N.R. tracks at Montreal East, Quebec.
- 79488 July 30—Permitting the removal of slow order at C.N.R. crossing near station at Minto, Ontario.
- 79489 July 30—Authorizing the C.N.R. to reconstruct their bridge at mileage 40·6 Central Butte Subdivision, Saskatchewan.
- 79490 July 30—Permitting the removal of slow order at C.N.R. crossing of Baldwin Street, Barrie, Ontario.
- 79491 July 30—Authorizing the Ontario Department of Highways to construct a temporary public crossing over the C.P.R. at mileage 74·70 Parry Sound Subdivision, Ontario.
- 79492 July 30—Authorizing the C.P.R. to reconstruct the bridge at mileage 56·09 Bredenburg Subdivision, Manitoba.
- 79493 July 31—Approving under Maritime Freight Rates Act tolls published in tariff and supplements filed by the Canadian Freight Association under Sections 3 and 9.
- 79494 July 31—Authorizing the Grand Trunk Pacific Rly. Co. to construct branch line along 121st Street in Edmonton, Alta.
- 79495 July 31—Approving proposed location of storage tanks, etc., of The British American Oil Co. Ltd. near C.P.R. tracks at Kenora, Ontario.
- 79496 July 31—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Section 9.
- 79497 July 31—Approving under Maritime Freight Rates Act tariffs filed by C.N.R. under Section 3.
- 79498 July 31—Approving under Maritime Freight Rates Act tariffs filed by the C.N.R. under Section 3.
- 79499 July 31—Approving under Maritime Freight Rates Act tariffs filed by the Canadian Freight Association under Sections 3 and 9.
- 79500 July 31—Approving proposed location of Imperial Oil Limited storage tanks, etc., near C.P.R. tracks at Tribune, Saskatchewan.
- 79501 July 31—Authorizing Calgary Power Limited to construct gas service line across right of way of Interprovincial Pipe Line Co. in N $\frac{1}{2}$ ONE $\frac{1}{4}$ -31-52-R23-W4M.
- 79502 July 31—Amending Order No. 79250, dated June 19, 1952, *re* crude oil loading facilities at Munson, Alta., (C.N.R.) for Great Plains Development Company Limited.
- 79503 Aug. 1—Permitting the removal of slow order at C.N.R. crossing of Thomas Street, Nananee, Ontario.
- 79504 Aug. 1—Approving under Maritime Freight Rates Act tariff filed by the Sydney & Louisburg Rly. Co. under Section 9.
- 79505 Aug. 1—Permitting the removal of slow order at C.N.R. crossing of Marlboro Street, Cornwall, Ont.
- 79506 Aug. 1—Permitting the removal of slow order at C.N.R. crossing west of station at Delhi, Ont.
- 79507 Aug. 1—Permitting the removal of slow order at C.N.R. crossing known as Benois Crossing, mileage 523, Port aux Basques Subdivision, Newfoundland.
- 79508 Aug. 1—Permitting the removal of slow order at C.N.R. crossing west of station at Glaslyn, Sask.
- 79509 Aug. 1—Permitting the removal of slow order at C.N.R. crossing near M.P. 12, Camrose Subdivision, Alberta.
- 79510 Aug. 1—Authorizing the C.P.R. to construct an extension of passing siding near Tompkins, Sask.
- 79511 Aug. 1—Authorizing the City of Sherbrooke, Que., to construct Burlington Street, across the C.P.R.
- 79512 Aug. 1—Authorizing the C.P.R. to divert the highway at the southeast end of its yard at Cartier, Ont., etc.
- 79513 Aug. 1—Approving plan showing protection as installed at crossing of C.N.R. and Alma Street, Hebertville, Que.
- 79514 Aug. 1—Approving plan showing automatic block signals from mileage 60 to mileage 128·8 Shuswap Subdivision, British Columbia.
- 79515 Aug. 1—Approving under the Maritime Freight Rates Act tolls published in Supplements to Tariffs filed by the Canadian Freight Association under Sections 3 and 9.
- 79516 Aug. 5—Approving proposed signal changes at Cartier, Ont., C.P.R.
- 79517 Aug. 5—Authorizing the C.P.R. to make changes to interlocking at crossing of Pere Marquette Rly. at Chatham, Ont.

- 79518 Aug. 5—Approving plan showing changes to interlocking plant at crossing of C.P.R. and Oshawa Rly. Co. at Oshawa, Ont.
- 79519 Aug. 5—Permitting the removal of slow order at C.N.R. crossing near station at Joffe, Alta.
- 79520 Aug. 5—Authorizing the Quebec Department of Roads to construct highway across the right of way of the Quebec Central Rly. Co. on the siding leading to Lessard gravel bank, Municipality of Tring Junction, Quebec.
- 79521 Aug. 5—Authorizing the C.P.R. to construct an extension to Bridge 112·4 Cartier Subdivision, at Cartier East, Ont.
- 79522 Aug. 5—Permitting the removal of slow order at C.N.R. crossing near Longford, Ont.
- 79523 Aug. 5—Restricting the speed of trains over C.N.R. crossing, Fort William, Ont.
- 79524 Aug. 5—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The Bethesda & Stouffville Telephone Co. Ltd.
- 79525 Aug. 5—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The Bethesda & Stouffville Telephone Co. Ltd.
- 79526 Aug. 6—Approving proposed location of storage tanks, etc., of the C.N.R. near their tracks at the Bonaventure Freight Terminals at Montreal, Que.
- 79527 Aug. 6—Approving Supplement to Traffic Agreement and Service Station Contract between The Bell Telephone Co. and The Aylmer & Malahide Telephone Co. Ltd.
- 79528 Aug. 6—Approving Supplement to Traffic Agreement and Service Station Contract between The Bell Telephone Co. and The Aylmer & Malahide Telephone Co. Ltd.
- 79529 Aug. 6—Approving Supplement to Traffic Agreement and Service Station Contract between The Bell Telephone Co. and The Aylmer & Malahide Telephone Co. Ltd.
- 79530 Aug. 6—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and La Tuque Telephone Co.
- 79531 Aug. 6—Authorizing the Township of Grantham, Ont., to construct Beamer Ave. across the N.S. & T. Rly. right of way at mileage 3·36 Lakeshore Subdivision.
- 79532 Aug. 6—Authorizing the C.P.R. to construct an extension of passing siding near Carmichael, Sask.
- 79533 Aug. 6—Amending Order No. 78764, dated April 15, 1952, re subway at 4th Street West, Calgary, Alta. (C.P.R.)
- 79534 Aug. 6—Authorizing the B.C. Department of Public Works to construct highway across the Great Northern Rly. Co., at Waneta, B.C.
- 79535 Aug. 6—Authorizing the C.N.R. and C.P.R. to operate their trains over branch line of Toronto Harbour Commissioners serving Gair Company (Canada) Ltd., Basin St., Toronto, Ont.
- 79536 Aug. 6—Approving under Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 79537 Aug. 6—Approving clearances at the siding serving the Canadian Gypsum Co. Ltd., at Weston, Ont. (C.N.R.)
- 79538 Aug. 7—Approving proposed location of storage tanks, etc., of the Canadian Oil Companies, Ltd., near C.N.R. tracks at Pembroke, Ont.
- 79539 Aug. 7—Authorizing the Ontario Department of Highways to widen Highway No. 62 across the C.N.R. at mileage 89·7 Maynouth Subdivision.
- 79540 Aug. 7—Restricting the speed of trains over C.N.R. crossing of Orleans Ave., Montreal, P.Q.
- 79541 Aug. 7—Approving location and details of station proposed to be erected by the C.N.R. at Jacquet River, N.B.
- 79542 Aug. 7—Authorizing the C.N.R. to use the overhead bridge at Portage Road, mileage 3·1 Grimsby Subdivision, Ontario.
- 79543 Aug. 7—Approving plan showing location of signals at crossing of L. & P.S. Rly. and Highway No. 4 near St. Thomas, Ont.
- 79544 Aug. 8—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79545 Aug. 8—Approving application of Canadian Freight Association for the elimination of Imperial Oil Ltd. as a party shipper from Agreed Charge Tariff C.T.C. (AC) No. 41, effective April 1, 1952.
- 79546 Aug. 8—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Grande Centre, Alta.
- 79547 Aug. 8—Approving certain revisions to Tariff C.T.C. No. 35 of the British Columbia Telephone Co. effective August 15, 1952.
- 79548 Aug. 8—Permitting the removal of slow order at C.N.R. crossing south of station at Oyama, B.C.
- 79549 Aug. 8—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at Theodore, Sask.
- 79550 Aug. 11—Authorizing the C.N.R. to operate the trestles at mileages 83·2, 84·4 and 93·4 Drumheller Subdivision, Province of Alberta.

- 79551 Aug. 11—Permitting the removal of slow order at C.N.R. crossing west of station at Winsloe, P.E.I.
- 79552 Aug. 11—Authorizing the C.P.R. to operate the concrete tunnel portal at mileage 9.5 Shuswap Subdivision, Province of British Columbia.
- 79553 Aug. 13—Approving plans showing location of Trans Mountain Oil Pipe Line Co. pipe line in New Westminster District, British Columbia.
- 79554 Aug. 13—Authorizing the Saskatchewan Department of Public Works to construct pipes, etc., under the C.N.R. at mileage 85.97 Avonlea Subdivision, Saskatchewan.
- 79555 Aug. 13—Approving proposed location of storage tanks, etc., of Standard Oil Co. of British Columbia near C.N.R. tracks at Smithers, B.C.
- 79556 Aug. 13—Approving proposed location of storage tanks, etc., of Mr. O. R. Berg, near C.N.R. tracks at Ardmore, Alta.
- 79557 Aug. 13—Permitting the removal of slow order at C.P.R. crossing west of station at Gull Lake, Sask.
- 79558 Aug. 13—Permitting the removal of slow order at C.N.R. crossing of Woodward Ave., Hamilton, Ont.
- 79559 Aug. 13—Restricting the speed of trains over C.N.R. crossing of Church St., Moncton, New Brunswick.
- 79560 Aug. 13—Authorizing the C.N.R. to construct an additional railway track to connect with private industrial siding serving Wm. J. Lundrigan Ltd., Corner Brook East, Newfoundland.
- 79561 Aug. 13—Permitting the removal of slow order at N.S. & T. Rly. crossing of Quaker Road, Ont.
- 79562 Aug. 13—Authorizing the Imperial Oil Ltd. to construct a pipe line across the L.E. & N. Rly. in County of Brant, Ontario.
- 79563 Aug. 13—Approving plan showing changes to C.N.R. signals at crossing of L.E. & N. Rly. at Galt South, Ont.
- 79564 Aug. 13—Approving location of protection at crossing of C.N.R. and the highway, known as Janes Crossing, Parish of Newcastle, N.B.
- 79565 Aug. 13—Permitting the removal of slow order at crossing of Grand Ave., Chatham, Ont., by the Chesapeake & Ohio Rly.
- 79566 Aug. 13—Approving plan showing protection at crossing of Quebec Central Rly. and Provincial Highway No. 1 at Disraeli, Que.
- 79567 Aug. 14—Authorizing the Northern Alberta Rly. Co. to use the timber trestle bridge at mileage 131.5 Grande Prairie Subdivision, Alberta.
- 79568 Aug. 14—Approving Supplement to Express Class No. 9 filed by The Express Traffic Association.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

September 15, 1952

No. 12

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways Company and the Winnipeg River Railway Company for the approval of Agreed Charge C.T.C. (AC) No. 48 between the applicants and Imperial Oil Limited and North Star Oil Limited on certain specified petroleum products from Calgary, East Edmonton, Regina, East Winnipeg and St. Boniface to points in the Provinces of Alberta, British Columbia, Manitoba, Ontario and Saskatchewan, shown in paragraph C(2) of the application.

File No. 40994-37

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
FRANK M. MACPHERSON, *Commissioner.*

Heard at Regina, Sask., May 21, 22 and 23, 1952.

Appearances:

Mr. A. K. DYSART and Mr. A. H. HART for the Canadian Freight Association, the Canadian National Railways and Northern Alberta Railways Company.

Mr. K. D. M. SPENCE for the Canadian Freight Association, the Canadian Pacific Railway Company, the Northern Alberta Railways Company and the Winnipeg River Railway Company.

Mr. GEORGE W. ROBINETTE for the Imperial Oil Limited.

Mr. A. W. EMBURY for the Canadian Automotive Transportation Association and A. R. Mang.

Mr. M. A. MACPHERSON, Q.C., for the Northern Petroleum Corporation Limited and Prince Albert Refineries Limited.

Mr. W. B. FRANCIS, Q.C., for the Saskatchewan Federated Co-operatives Limited.

Mr. GERALD M. HECHTER, President, Radio Oil Refineries Limited.

JUDGMENT

KEARNEY, J., Chief Commissioner:

This application for approval of an agreed charge filed on behalf of the Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways Company and the Winnipeg River Railway Company, hereinafter sometimes referred to as the applicants or the railway, was opposed by shipping interests and parties engaged in public automotive transport, hereinafter sometimes referred to as the contestants. Shippers objecting to the application were Northern Petroleum Corporation Limited, of Kamsack, Sask., Prince Albert Refineries Limited, of Prince Albert, Sask., and Radio Oil Refineries Limited, of Winnipeg, Man. Another shipper, namely the Saskatchewan Federated Co-operatives Limited originally objected to the proposed agreed charge, but shortly after the opening of the hearing withdrew its objection and applied to the Board under subsection 6 of Section 35 of The Transport Act, 1938, hereinafter referred to as the Transport Act, to fix a charge for the transport of its petroleum products the same as the proposed agreed charge which was before us, with the exception that it was requested that the commencement date be not prior to June 15, 1952. The last-mentioned application was concurred in by the railways concerned and was not otherwise opposed.

During the course of the hearing Mr. James Tucksford appeared on behalf of 850 members of the Saskatchewan Motor Dealers Association and suggested that the Board scrutinize the proposed agreed charge very carefully because of its impact on Saskatchewan Motor Dealers, the national economy and the national safety, before approving it.

The Canadian Automotive Transportation Association and A. R. Mang, who are engaged in highway motor truck transportation, appeared through their counsel, Mr. A. W. Embury, and applied to the Board to be heard in opposition to the application. Mr. A. K. Dysart and Mr. A. H. Hart, and Mr. K. D. M. Spence, counsel for the railway interests, strongly urged that the road transportation truckers not being carriers within the meaning of the Transport Act were not entitled to be heard in opposition to the agreed charge for which approval had been sought by the railways.

The Board suggested that it would defer its decision rather than decide the status of the automotive truckers at the outset of the hearing, and that in the meantime the latter be allowed to appear and plead under reserve of the objection as to their status as made by counsel for the railways. Subsidiarily the Board suggested that in view of the latitude customarily given by the Board with respect to those desiring to be heard, and relying on its wide discretionary powers and the provisions of subsection 13 of Section 35 of the Transport Act, it might hear the representation of the automotive truckers notwithstanding that the latter might not have the required status to appear as of right as an objector to the proposed agreed charge. Being an administrative body as well as a court, the Board was disposed to consider hearing evidence and argument from highway carriers so that if their right to participate in the case should be established the case would be complete and no further hearing would be required. Alternatively, if such status was not established, such evidence and argument would be ignored. The foregoing suggestions were, however, unacceptable both to counsel for the railways and counsel for the automotive truckers. The railways urged that to allow counsel for the automotive truckers to take part in the proceedings in any other capacity than as a party entitled to be heard as of right in opposition to an agreed charge, would complicate the hearing and likely lead to evidence and argument which would be found to be irrelevant. Counsel for the automotive truckers opposed the Board's suggestion for a different reason. He was anxious to have a ruling by the Board on the question of

whether they could be considered as carriers within the meaning of Section 35, subsection 5(c) of the Transport Act, and accordingly entitled to be heard as an objector as a matter of right with a view to appealing the decision, if adverse, to a higher court. Mr. Embury made it clear that for the Board to hear his representations on a discretionary basis or as a matter of courtesy would be of no assistance to him. Mr. Embury's statement greatly simplified the issue before us.

The Board adjourned the hearing in order to deliberate, and subsequently rendered the following oral judgment:

"THE CHIEF COMMISSIONER: When we adjourned, gentlemen, there was a question before the Board. We understand that the question is not whether the Board has, in the exercise of its discretion, power to permit members of the Automotive Transport Association or other highway carrier to be heard, but whether the members of the Association are carriers within the meaning of subsection 5 of Section 35 of The Transport Act, 1938, and therefore entitled to be heard by the provisions of that subsection.

"The Board's decision is that the answer is in the negative."

In view of the above ruling, counsel for the automotive truckers was requested to make clear to the Board what position he wished to adopt with respect to further hearing. Mr. Embury stated—

"Now, we note that the Board does not decide that we might be heard on a courtesy or a discretionary basis but the Board does decide that my clients do not have the status of objectors under the Act.

"Now, my lord, having in mind the fact that the representations we desire to make and the desire we have to take a full part or any part we might take would only be received on a courtesy or a discretionary basis if the Board did exercise its discretion in our favour in that respect, and having in mind the fact that due weight could not be given to our representations if made on that basis, we do feel that we would not be justified in taking up the time of the Board in making representations which could only be viewed in that restricted light.

"I desire therefore, my lord, to say with every deference to the view of the Board, that we do not propose to participate further in these proceedings and that we do intend to prosecute an appeal against the decision forthwith."

As no reasons were given when the Board orally ruled that automotive truckers were not carriers within the meaning of paragraph (c) of subsection 5 of Section 35 of the Transport Act, I think it is appropriate for me to briefly set out the reasons which prompted the Board to come to the foregoing conclusion.

If the automotive truckers are entitled under subsection 5 to be heard as of right in the matter of an agreed charge it is because of paragraph (c) of subsection 5, which provides that "any carrier" is entitled to be heard in opposition to an application for the approval of an agreed charge. Undoubtedly, automotive truckers are carriers in the broad sense of the term but that does not mean that they are carriers as defined in the Transport Act. Under paragraph (d) of subsection 1 of Section 2 of the Act the word "carrier" means "any person engaged in the transport of goods or passengers for hire or reward to whom this Act applies, and shall include any company which is subject to the Railway Act." Paragraph (o) defines "transport" and it is said to mean "the transport of goods or passengers whether by water or rail for hire or reward, to which the provisions of this Act apply." Automotive truckers being neither persons engaged in transport by water or by rail are therefore not carriers within the meaning of paragraph (d). Neither are they in our opinion a person "to whom this Act applies." The long title of The Transport Act, 1938, as set forth in 2 George VI, Chapter 53, is "An Act to establish a Board of Transport

Commissioners for Canada with authority in respect of transport by railways, ships and aircraft." If the provisions of the Act were meant to apply to automotive carriers, mention of the fact would have been made. It is also worth noting that the controversial issue of whether interprovincial road transport falls under Federal or Provincial authority is still in the courts. Though unimportant for the purposes of this case, it might be mentioned in passing that aircraft was subsequently removed from the authority of the Board of Transport Commissioners.

The duties of the Board as set out in Part 1, Section 3, subsection 2, of that Act also indicate that truckers were not intended to be covered by the provisions of the Act. The subsection states "It shall be the duty of the Board to perform the functions vested in the Board by this Act and by the Railway Act with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways and ships and the Board shall give to this Act and to the Railway Act such fair interpretation as will best attain the object aforesaid."

In *Canadian Freight Association v. Canada Steamship Lines Ltd., et al.*, 54 C.R.T.C. 1, the Board refused approval of an agreed charge made by the railways on the grounds, *inter alia*, that it would have adverse effect on water carriers. However, such water carriers were carriers to whom the Act applied and as such were entitled to consideration under Part 1 of the Act.

It is to be noted, however, that while the Board has a duty to co-ordinate and harmonize the operations of certain carriers engaged in transport by railways and ships, no such obligation exists with respect to parties engaged in transport by road. Nevertheless this does not mean that the Board could not or would not hear road transport carriers in order to judge of the relevancy of the evidence they might present as provided in subsection 13 of Section 35 of the Transport Act.

The Board has satisfied itself that the procedural requirements of Section 35 of the Transport Act and of the Board's General Order No. 581 have been fully complied with, and we can proceed to deal with the merits of the application.

The circumstances which led up to the agreed charge for which approval is now sought arose when the railways investigating ways and means of recovering rail traffic on petroleum products which had been lost in the Provinces of Manitoba, Saskatchewan and Alberta, discovered that Imperial Oil Limited which it is said handles 65 per cent of all Canadian petroleum products and consequently is a most important account for the railways, was making a study of automotive trucking costs with a view to transporting its petroleum products by truck instead of by railway. This study showed that, taking into account operating costs and investment features in the areas intended to be covered by the agreed charge, the company could transport refined petroleum products by highway at much lower cost than it could at railway rates. The railways on their own account made a similar cost survey to that made by Imperial Oil which, but for minor variations, confirmed the Imperial Oil cost survey. The railways were convinced that unless they were able to dissuade Imperial Oil from setting up its own truck transport a very large portion, if not all, of their business with the oil company would be lost. This, I think, is the main basis upon which the agreed charge was made and involves consideration as to whether the railways' apprehension at the possible loss of traffic is justifiable and whether the measures taken are reasonable and proper.

The evidence shows that the railways made the approach to Imperial Oil as to what conditions would be necessary to retain traffic to the railways, and it also shows that Imperial Oil clearly indicated its intention to go to highway transport by its own equipment. Obviously the railways considered that they should place themselves in a position to offer a competitive level of rates and

equally obviously that is what Imperial Oil required, otherwise much, if not all, of Imperial Oil's business heretofore enjoyed by the railways would be lost to the railways. It was said that rather than a threat the proposed action by the oil company was simply good business. Even if it could be looked upon as a threat, I think the railways were justified in not regarding it as an idle one because Imperial Oil has ample means and facilities for doing its own transport by motor truck if it is in its interests so to do. The railways knew that the very proposal which Imperial Oil was considering had been carried out in Ontario by the British American Oil Company with detrimental results to the railways.

The railways after investigation found the cost schedules prepared by Imperial Oil were irrefutable. The situation was also fraught with a sense of urgency because if Imperial Oil once committed itself to doing its own trucking and contracted for the equipment necessary therefor, it would be too late for the railways to consider the advisability of meeting the situation by a contract of agreed charges or otherwise. Subject to approval by the Board therefore, the railways entered into a contract with Imperial Oil Limited and North Star Oil Limited which provided that in consideration of the railways carrying the petroleum products specified in the agreement at rates comparable to those which it was considered would enure to the benefit of Imperial Oil if it did its own transportation, the oil companies in return guaranteed the railways that 75 per cent of the petroleum products specified in the agreement would be shipped by rail.

It is contended first of all by those opposing the agreed charge that instead of being beneficial to the railways it would be detrimental to their interests. Mr. Hechter, President of Radio Oil Refineries Limited, who although not a lawyer skilfully argued his company's case, stated that by reducing the prevailing rates, particularly on Bunker C fuel oil, which he claimed constituted 35 per cent of the business given to the railways if not by Imperial Oil Limited then at any rate by the North Star Oil Limited, the railways would lose more than they would gain by the agreed charge even though guaranteed 75 per cent of the petroleum traffic shipped by the said oil companies. To support this argument Mr. Hechter contended that because Bunker C is a heavy fuel oil which will not flow in low temperatures it is not practical, particularly in the winter, to ship it by tank waggon, and for this reason the railways were assured of the oil companies Bunker C business. Mr. Dysart, for the Canadian National Railways, however pointed out that under the description of traffic as mentioned in proposed agreed charge crude oil, which includes Bunker C, was excepted. In addition it was proven that by far the greater portion of Bunker C shipped over the railways was for their own account. Additionally that the proportion of Bunker C shipped for other than the railway's own account was but a fraction of the petroleum products included in Exhibits 15 and 16 which purport to show the traffic calculated on a six month period which the railways stood to lose.

It is unquestionably true, as Mr. M. A. MacPherson, Q.C., counsel for the opposing refineries, pointed out, that the reductions in rates as provided in the agreed charge are drastic; but as contended by the railways it may be more beneficial to them to handle an assured proportion of petroleum shipments at reduced rates, rather than not handle them at all. This latter argument could I think be pushed too far, and I think that if the railways are to succeed it must be proven that the agreed charge rates are likely to be remunerative.

In this connection it is to be noted that subsection 13 of Section 35 requires the Board to have regard to the effect of the agreed charge upon the net revenue of the carrier, and inferentially at least we would be entitled, if not required, to disapprove of the agreed charge if in our opinion it is likely to adversely affect the net revenues of the railways.

We have had our Bureau of Transportation Economics examine the relevant exhibits and working papers which have been filed in this case with a view to determining whether or not the proposed agreed charge rates are likely to prove remunerative and benefit the net revenue position of the railways. The Board's officers believe that while on the short haul up to thirty miles the railways cannot hope to do better than break even, on the longer hauls and in the aggregate, having in mind the object to be secured, the agreed charge should improve the net revenue position of the railways and be reasonably compensatory under the circumstances and we find accordingly. By comparison with other agreed charges on petroleum products sanctioned by the Board, such as No. 46 from Moose Jaw to Manitoba and No. 11 in Eastern Canada, it is apparent that the proposed agreed charge under all the circumstances conforms to the general pattern.

The three contesting refineries contended that if the agreed charge were approved such approval would be the cause of their being put out of business. They fear that if Imperial Oil Limited obtains the advantage of lower shipping rates on its refined products it would be able to under-sell the objecting refineries to such an extent as to make the latter's business no longer profitable.

In this connection I think it should be pointed out that if the agreed charge were refused and the oil companies which are a party to it proceeded to use their own tank waggons as they originally intended it would have the same result on the business of the contestants, with this difference, however, that the railways would lose much of the business which the agreed charge is calculated to retain.

Counsel urged in argument that we should consider the effect the granting of the agreed charge would have on the national economy should another railway strike or problems of civil defence arise.

Within reasonable limits matters of national emergency and civil defence are I think matters which the Board could properly have regard to under the provisions of subsection 13 of Section 35 of the Transport Act.

Although no attempt was made to produce evidence in regard to the likelihood of strikes or problems arising out of civil defence it was suggested that the Board might take judicial notice of what had previously occurred. The Board is of the opinion that there is not sufficient matter which it could take judicial notice of to warrant its refusing to approve the agreed charge because of its possible effect on the national economy from problems arising out of possible railway strikes or other emergencies.

There was another and what I think may be regarded as a final argument advanced by the contestants which could be regarded as an alternative one, and which might be stated as follows:

Assuming the agreed charge were approved, since those procuring it and availing themselves of it would enjoy a greatly reduced rate on refined products leaving their refineries, the objecting shippers should be given similar concessions on petroleum products in the crude state entering their refineries.

Part 5 of the Transport Act requires that agreed charges which are approved between certain carriers and shippers must be available to other shippers who care to and are able to take advantage of them. What I have termed an alternative argument has been advanced I think because the three contesting refineries claim that they cannot take advantage of the proposed agreed charge for various reasons including the fact that their markets are much farther removed from their refineries by rail than by road, a lack of tank storage and the scarcity of materials to construct such storage. Consequently contesting refineries suggested the railways should make a separate agreed charge on the crude petroleum products entering refineries of the contestants.

Counsel for the contestants admitted that the Board could not initiate an agreed charge, and it must also be realized that even if the parties were in concurrence with respect to an agreed charge other than the one before us, we could not hear it unless and until the formalities required by the relevant subsections of Section 35 had been complied with.

The Board nevertheless requested the railways to give consideration to the concessions sought by the contesting refineries because if as feared, be the reason what it may, the business of the contesting refineries is diminished the railways would stand to lose traffic heretofore given them by such refineries. Counsel for the railways said that they would look into the matter again in more detail, and the Board considers that it has gone as far as it reasonably can with respect to the concessions sought by the contesting refineries.

I am satisfied that the object sought to be secured by the making of this agreed charge, having regard to all the circumstances obtaining, cannot adequately be secured by a tariff of tolls under the Railway Act. I would approve Agreed Charge C.T.C. (AC) No. 48 effective April 1, 1952, and, unless the Board for any reason should otherwise direct, the agreed charge will continue in effect in accordance with Condition No. 6 set forth therein.

Insofar as Saskatchewan Federated Co-operatives Limited is concerned I would fix a charge the same as the agreed charge herein approved, including all the conditions thereof, commencing on June 15, 1952, as requested by that company.

JOHN D. KEARNEY.

July 24, 1952.

I concur:

FRANK M. MACPHERSON.

ORDER No. 79470

In the matter of the application of the Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways Company and the Winnipeg River Railway Company for the approval of Agreed Charge C.T.C. (AC) No. 48 between the Applicants and Imperial Oil Limited and North Star Oil Limited on certain specified petroleum products from Calgary, East Edmonton, Regina, East Winnipeg and St. Boniface to points in the Provinces of Alberta, British Columbia, Manitoba, Ontario and Saskatchewan, shown in Paragraph C(2) of the application:

File No. 40994-37

FRIDAY, the 25th day of July, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sittings of the Board at Regina, Saskatchewan, in the presence of Counsel for and representatives of the Canadian Freight Association, the Canadian National Railways, Northern Alberta Railways Company, Canadian Pacific Railway Company, Winnipeg River Railway Company, Imperial Oil Limited, Canadian Automotive Transportation Association, Northern Petroleum Corporation Limited, Prince Albert Refineries Limited, Saskatchewan Federated Co-operatives Limited, Radio Oil Refineries Limited and A. R. Mang—

It is ordered that

1. Agreed Charge C.T.C. (AC) No. 48 between Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways Company, Winnipeg River Railway Company and Imperial Oil Limited and North Star Oil Limited, on petroleum products as specified therein from Calgary, Alberta, East Edmonton, Alberta, Regina, Saskatchewan, East Winnipeg Manitoba and St. Boniface, Manitoba, to points in the Provinces of Alberta British Columbia, Manitoba, Ontario and Saskatchewan specified therein, on file with the Board under file No. 40994-37, be, and it is hereby, approved; and the date as from which the said Agreed Charge shall be deemed to have become operative is hereby fixed as the first day of April, 1952.

2. The said Agreed Charge be, and it is hereby, fixed for the transport by the said railway companies of petroleum products as specified therein for Saskatchewan Federated Co-operatives Limited from Calgary, East Edmonton, Regina, East Winnipeg and St. Boniface aforesaid to points in the Provinces of Alberta (except north of Lac la Biche and west of Jasper), Saskatchewan and Manitoba subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the fifteenth day of June, 1952, as the date upon which the said charge hereby fixed comes into operation.

A. SYLVESTRE,

Deputy Chief Commissioner.

In the matter of the application of Joseph Vezina for an Order directing the Canadian Pacific Railway Company to repair and maintain the drainage system along its line at St. Francois de Sales Station in the Province of Quebec.

File No. 45746

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

K. D. M. SPENCE and J. A. GADBOIS, for the Canadian Pacific Railway Company.

I. J. DESLAURIERS, Q.C., for the Applicant.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

The application in this case was filed with the Board by Counsel for the Applicant under date of December 10, 1948, and in the application it was alleged, *inter alia*, that:

"(1) the Applicant's farm is bounded by the Mille-Isles River where originally a brook crossing part of the Applicant's farm used to flow into.

(2) At the time of the construction of the railway line, the natural course of the waters had to be interrupted, and the Company which built the said line took the necessary measures to remedy this inconvenience in a manner so as not to damage other people's property and to respect the rights of third parties.

(3) Particularly, at approximately one thousand feet from Mille-Isles River, bordering its line, the Company which built the railway established an underground drainage system to facilitate drainage of waters towards the river.

(4) For numerous years this drainage system was properly maintained by that Company and later on by the Canadian Pacific Railway Company which became owner of the line and had to assume the same obligations towards the farmers established along the line.

(5) Through lack of maintenance of this drainage system and on account of defective repairs made to the system, the underground water conduits became completely obstructed and do not now serve the purpose for which they were installed; due to this defectiveness and the negligence of the Canadian Pacific Railway Company, the water resulting from the natural drainage of lands, rains and thaws cannot drain as normally done previously; it accumulates around the underground conduits which are obstructed by the Canadian Pacific Railway and flood a considerable portion of the Applicant's farm."

A copy of the application was sent to the Canadian Pacific Railway Company, hereinafter referred to as "the Railway", and in its reply the Railway contended, *inter alia*, that the Applicant's land was being flooded because a ditch had been allowed to fill in and that if the said ditch were cleaned out the water conditions on the Applicant's land would be greatly improved.

After some further exchanges of correspondence, the Board decided to have one of its Engineers make an inspection and report back to the Board his findings in the matter. In company with representatives of both parties, the Board's Engineer made an inspection on May 6, 1949, and in part stated:

"This complaint is in connection with an old 2 x 2 wooden box drain, apparently built at the time of the construction of the railway to carry water from an area in the vicinity of the masonry culvert at mileage 9-85 Trois-Rivieres Subdivision and take it to Riviere des Mille Iles, a distance of 1,450 feet.

The wooden box is about 1,200 feet long and is all located on railway property and runs parallel to the track. It is laid at the bottom of a big open ditch and is covered with one to two feet of dirt all the way.

Around 1912 the Railway built the station at de Sales and before filling the open ditch to provide space for the station and the platform, placed a 24" circular concrete pipe on top of the old wooden box. The concrete pipe is approximately 400 feet long and takes the drainage from the open ditch above the wooden box to the river. The concrete pipe crosses under the highway near the river and is in good condition. There is no trace of the wooden box on the river side of the highway, undoubtedly because it was not properly maintained. This wooden drain has gradually become blocked at the river end and no longer allows water to get through. It is full of water all the way south of the south end of the concrete pipe that was laid on top of the same, behind de Sales Station.

Elevations at the bottom of the wooden box are lower than the elevation of the ditch at culvert M 9-85, which would indicate that the wooden box was originally put in to drain this area.

In their submission the Canadian Pacific Railway state that the bottom of the culvert at mile 9-85 as indicated on their plan is lower than the old wooden box, but the elevations shown on the plan were taken in the open ditch above the wooden box. Elevations taken at the time of the inspection proved that the bottom of the wooden box is low enough to drain this area if it is unblocked at the river end and the open ditch properly cleaned between the masonry culvert at mileage 9-85 and the beginning of the old wooden box.

The Railway suggests in their submission that Mr Vezina's land in the vicinity of culvert mileage 9-85 could be drained through the 'natural course' which exists between the culvert mileage 9-85 and River des Mille Iles. There is a ditch between the railway culvert and the river which serves to drain the land between Mr. Vezina's and the river. Mr. Vezina has apparently made some attempts to drain his land through that ditch, but has found it impossible.

Elevations on the Canadian Pacific Railway plan show that the bottom of the ditch at the westerly limit of Mr. Vezina's land is one foot higher than the ditch at the culvert and two feet higher than the invert of the masonry culvert. although the ditch is about 4 feet deep at the property limit. This is evidently not a natural course and no evidence can be found that the ditch had been filled in, but there was evidence that the ditch had been redug not very long ago."

After further correspondence concerning the matter, the Board received a letter dated November 15, 1951, from the Railway, which stated in part:

"Although there is no obligation whatever on the part of the Railway Company to do any work on the ditch referred to above, we would be prepared, in order to bring this dispute to a close, to widen and deepen the ditch in question, provided that (1) the consent of Vezina's neighbours be secured or, in the alternative, the ditch be verbalized at the land owner's expense; (2) that, in the future, the ditch be maintained by the property owners and not by the Railway Company; (3) that a complete release and discharge be given to the Railway Company by Vezina for any alleged damage he may have suffered in the past from faulty drainage; (4) that the Company's offer to maintain and deepen the ditch outside of its own right of way is not to be construed as establishing a precedent that the Railway Company is prepared to perform such work in other cases."

The offer of the Railway not being satisfactory to the Applicant, the matter was put down for hearing and, as above stated, was heard in Montreal on June 25, 1952.

During the Hearing the Railway submitted Exhibit No. 1, which consisted of a blueprint plan of the railway and the territory involved and from that exhibit and evidence adduced it appears that part of the Applicant's land consists of what might be termed a pocket. A certain amount of water drains into the Mille-Isles River by flowing through the ditch which the Railway alleges could be cleaned up, and undoubtedly the Applicant's land could all be properly drained if the ditch in question were deepened and widened, but here it should be stated that the Applicant does not own all of the land through which the water flows and one of the owners of a property located at what might be termed the northwestern end of the ditch—who appeared as a witness—strenuously objected to the widening and deepening of the ditch on the grounds that if it were done some of his land might become flooded.

On the other hand, through evidence submitted it was shown that if the old wooden box drain were unblocked and cleaned out, leaving the so-called ditch as it is at the moment, the ditch would carry away part of the water and the lower portion of the Applicant's land could be drained through the wooden box conduit.

Further evidence was submitted which would indicate there was a brook where the railway embankment was constructed and a ditch was dug along the embankment to carry the water originally carried by this brook.

The evidence, however, appears to be conclusive that the natural way in which to fully drain the Applicant's land was through the old wooden box drain.

In order to resolve this matter it appears to be necessary to determine, as nearly as possible, what the conditions were at the time the Railway was built and up to the time—stated as being in 1913—when the Railway installed the concrete pipe to drain its own property and, at the same time, blocked the outlet of the old wooden box drain.

Witness Atchie Duguay, a man of 73 years of age who has been living at St. Francois de Sales for sixty years, stated in evidence (p. 4367) that he could recall the time when there was an open ditch on the north side of the Railway, which permitted the water to flow in a northerly direction to the Mille-Isles River; that the ditch filled in from time to time; that, finally, the Railway put the wooden box drain in and filled in on top of it, and that condition remained until the Railway built its station, laid the concrete pipe and filled in a depression on its own property, at the same time blocking the outlet of the wooden box culvert.

Evidence was also submitted to show that the Applicant had protested to the Railway by way of a legal document bearing the date of May 12, 1913. In this connection, it will be noted above that the Railway built the station at de Sales along about the year 1912, and I quote one particular paragraph from the above mentioned legal document, which reads as follows:

"We, therefore, upon the request mentioned above have summoned the said Company to undertake at once the necessary work on this ditch to allow their lot to drain as was the case in the past.

The above paragraph clearly infers that, prior to the Railway building its station at de Sales, laying its concrete pipe and blocking the wooden box conduit, the Applicant's land was being drained through the said wooden box conduit.

Towards the close of the Hearing, the Railway, in an effort to settle the matter, made a final offer, namely, that it would—at its own expense, deepen and widen the so-called ditch so as to permit it to completely drain the Applicant's land but would not assume the cost of further maintenance. The Applicant, however, did not agree to accept the offer and, in my opinion, in the face of the objections from another property owner as stated herein, it would not have helped the Applicant if he had accepted the offer unless the Railway had first reached an agreement with the other property owners concerned.

At the hearing, Counsel for the Railway brought up the question of "prescription". In its reply the Company had not referred to it but in his argument Counsel for the Railway argued that the Applicant's right to redress is prescribed. To support his contention, he quoted Section 2242 of the Quebec Civil Code (p. 4413 of the Evidence) and he referred also to Section 270 of the Railway Act. In my view, these two sections do not apply in this case, as the present application is based on Section 269 of the Railway Act which states in part that "whenever a municipality or landowner desires to obtain means of drainage, the said municipality or landowner may apply to the Board to that effect". There is no mention of prescription in this section.

From the report of the Board's Engineer and from the plan filed as Exhibit No. 1 and the evidence adduced at the Hearing, in my opinion, the Applicant's land was formerly drained through the wooden box conduit herein. The Railway having blocked the outlet of the wooden box drain, it must assume responsibility for the Applicant's land not being properly drained.

We conclude that the drainage at the point in question is insufficient and we think the railway should be directed to effect the construction required to re-establish the conduit as it existed prior to it being filled, in order to provide unimpeded drainage or, alternatively, to dig out and maintain the open ditch across Vezina's and other landowners between the railway and the river to obtain the same results. If the railway elect to choose the second alternative, it should notify the Board of its decision within thirty days of the date hereof.

A. SYLVESTRE.

OTTAWA, August 22, 1952.

I concur:

H. B. CHASE.

Dans l'affaire de la requête de Joseph Vézina, demandant qu'il soit ordonné à la compagnie de chemin de fer Pacifique-Canadien de réparer et d'entretenir le système de drainage le long de sa ligne près de la gare de Saint-François de Sales, province de Québec.

Dossier n° 45746.

Requête entendue par:

A. SYLVESTRE, C.R., *Commissaire en chef suppléant,*

H. B. CHASE, C.B.E., *Commissaire.*

Ont comparu:

K. D. M. SPENCE et J. A. GADBOIS,

pour la compagnie de chemin de fer Pacifique-Canadien.

I. J. DESLAURIERS, C.R., *pour le requérant.*

JUGEMENT

SYLVESTRE, *Commissaire en chef suppléant,*

La présente requête a été soumise à la Commission par l'avocat du requérant le 10 décembre 1948 et il est allégué entre autres choses dans cette requête que:

"1. La ferme du requérant est bornée par la rivière des Mille-Isles, où originairement un ruisseau traversant une partie de la ferme du requérant venait s'écouler;

2. Lors de la construction du chemin de fer, le cours naturel des eaux a dû être interrompu, et la compagnie qui a bâti ce chemin de fer a pris les mesures nécessaires pour remédier à cet inconvénient de manière à ne pas endommager la propriété d'autrui et respecter les droits des tiers;

3. Particulièrement, à environ mille pieds de la rivière des Mille-Isles, en bordure de sa voie, la compagnie qui a bâti le chemin de fer a établi une canalisation souterraine pour faciliter l'écoulement des eaux vers la rivière;

4. Pendant de nombreuses années, cette canalisation a été entretenue convenablement par cette compagnie et par la suite par le Canadian Pacific Railway Company qui est devenu propriétaire de cette voie, et a dû assumer envers les fermiers établis en bordure de cette voie les mêmes obligations;

5. Cependant, depuis environ vingt ans, par suite d'un défaut d'entretien de cette canalisation et par suite de réparations défectueuses qui ont été faites à cette canalisation, les conduites d'eau souterraines sont devenues complètement obstruées et ne remplissent plus les fins pour lesquelles elles ont été installées; par suite de cette défectuosité et de la négligence du Canadian Pacific Railway Company, l'eau provenant de l'égout naturel des terres, des pluies, et de la fonte des neiges, ne peut plus s'écouler comme elle le faisait autrefois normalement; elle s'accumule aux abords des conduites souterraines obstruées du Canadian Pacific Railway, et inonde une partie considérable de la ferme du requérant."

Une copie de la requête a été adressée à la Compagnie de Chemin de fer Pacifique-Canadien ci-après appelée "le chemin de fer" et dans sa réponse la compagnie a maintenu entre autres choses que le terrain du requérant était

inondé parce qu'on avait laissé s'emplir un fossé et que si ledit fossé était nettoyé le problème de l'eau sur la terre du requérant serait grandement amélioré.

Après plus ample correspondance la Commission a décidé qu'un de ses ingénieurs fasse une inspection et qu'il fasse rapport de ses constatations à ce sujet. En compagnie de représentants des deux parties, l'ingénieur de la Commission a fait une inspection le 6 mai 1949 et a déclaré en partie, que:

"Ce grief a trait à la vieille conduite de bois souterraine de 2×2 , construite, semble-t-il, lors de la construction du chemin de fer pour l'écoulement de l'eau d'un endroit voisin du ponceau en maçonnerie, au mille 9·85 de la subdivision Trois-Rivières, à la rivière des Mille-Isles, soit une distance de 1,450 pieds.

La conduite de bois est d'environ 1,200 pieds de long; elle est située entièrement sur la propriété du chemin de fer et longe la voie ferrée. Elle repose au fond d'un grand fossé à ciel ouvert et est recouverte d'un à deux pieds de terre dans toute sa longueur.

Vers 1912, la compagnie de chemin de fer a construit la gare de Saint-François de Sales et, avant de remplir le fossé à ciel ouvert pour y faire de l'espace pour la gare et le débarcadère, elle plaça un tuyau en béton de 24 pouces au-dessus de la vieille conduite. Le tuyau de béton est d'environ 400 pieds de long et écoule dans la rivière l'eau du fossé au-dessus de la conduite de bois. Le tuyau de béton passe sous la route, près de la rivière, et est en bon état. On n'y voit aucune trace de la conduite de bois du côté riverain de la route, probablement parce qu'il n'a pas été convenablement entretenu. Cette conduite de bois est graduellement devenue obstruée à l'extrémité près de la rivière et ne permet plus à l'eau de s'écouler. Elle est remplie d'eau dans toute la partie au sud de l'extrémité sud du tuyau de béton qui fut placé sur la conduite en bois en arrière de la gare de Saint-François de Sales.

Au ponceau situé au mille 9·85, les niveaux au fond de la conduite de bois sont inférieurs à ceux du fossé, ce qui semblerait indiquer que ladite conduite de bois avait été construite en premier lieu pour égoutter cet endroit.

Dans son exposé la Compagnie de chemin de fer Pacifique-Canadien affirme que le fond du ponceau situé au mille 9·85, tel qu'indiqué sur son plan, est plus bas que l'ancienne conduite de bois, mais les niveaux indiqués sur le plan ont été pris dans le fossé à ciel ouvert, au-dessus de la conduite. Les niveaux pris lors de l'inspection démontrent que le fond de la conduite est assez bas pour égoutter cet endroit pourvu qu'on débouche la partie près de la rivière et que le fossé à ciel ouvert soit convenablement nettoyé à partir du ponceau de maçonnerie au mille 9·85 jusqu'à la vieille conduite.

La compagnie de chemin de fer, dans sa déposition, suggère que la propriété de monsieur Vézina, voisine du ponceau au mille 9·85, pourrait être égouttée par le cours naturel entre le ponceau au mille 9·85 et la rivière des Mille-Isles. Il y a un fossé entre le ponceau de la voie ferrée et la rivière qui sert à égoutter le terrain entre la terre de monsieur Vézina et la rivière. M. Vézina aurait essayé d'égoutter sa terre au moyen de ce fossé mais il a constaté que cela était impossible.

Les niveaux indiqués sur le plan de la Compagnie de chemin de fer Pacifique-Canadien indiquent que le fond du fossé à la limite ouest de la propriété de M. Vézina est d'un pied plus élevé que le fossé à l'endroit du ponceau et de deux pieds plus élevé que le fond du ponceau en maçonnerie, quoique le fossé ait environ 4 pieds de profondeur à la limite de la propriété. Évidemment, ce n'est pas un cours naturel et l'on n'a pu trouver aucune preuve que le fossé ait été rempli, bien qu'il soit évident que le fossé a été creusé de nouveau il n'y a pas très longtemps."

Après plus ample correspondance à ce sujet, la Commission a reçu, entre autres, une lettre en date du 15 novembre 1951 de la compagnie de chemin de fer qui se lisait en partie comme suit:

"Although there is no obligation whatever on the part of the Railway Company to do any work on the ditch referred to above, we would be prepared in order to bring this dispute to a close, to widen and deepen the ditch in question, provided that (1) the consent of Vezina's neighbours be secured or, in the alternative, the ditch be verbalized at the land owners' expense; (2) that, in the future, the ditch be maintained by the property owners and not by the Railway Company; (3) that a complete release and discharge be given to the Railway Company by Vezina for any alleged damage he may have suffered in the past from faulty drainage; (4) that the Company's offer to maintain and deepen the ditch outside of its own right of way is not to be construed as establishing a precedent that the Railway Company is prepared to perform such work in other cases."

Vu que le requérant n'était pas satisfait de l'offre de la compagnie, l'affaire a été inscrite pour audition et a été entendue à Montréal le 25 juin 1952.

À l'audition la compagnie de chemin de fer a produit la pièce n° 1, laquelle consistait en un bleu du plan de la voie ferrée et du territoire en question et, d'après cette pièce et la preuve, la terre du requérant semble pour ainsi dire enclavée. Une certaine quantité d'eau se déverse dans la rivière des Mille-Isles en passant par le fossé qui, selon la compagnie de chemin de fer, pourrait être nettoyé et, sans doute, la terre du requérant pourrait être égouttée convenablement si on creusait et élargissait le fossé en question, mais il faut ajouter que le requérant ne possède pas tout le terrain à travers lequel s'écoule l'eau et l'un des propriétaires d'une terre située à un endroit qu'on pourrait appeler l'extrémité nord-ouest du fossé—lequel propriétaire a témoigné—s'est fortement opposé à l'élargissement et au creusage du fossé pour la raison que cela pourrait causer l'inondation de sa terre.

Par ailleurs, d'après la preuve il a été indiqué que si la vieille conduite de bois était libérée d'obstructions et nettoyée, en laissant ledit fossé tel qu'il est présentement, ce fossé pourrait emporter une partie de l'eau et la partie basse de la terre du requérant serait égouttée par la conduite de bois.

D'autres dépositions sembleraient indiquer qu'il se trouvait un ruisseau où l'on a construit le remblai du chemin de fer et qu'un fossé a été construit le long de ce remblai pour écouler l'eau qui, autrefois, passait par le ruisseau.

La preuve, cependant, semble démontrer définitivement que le moyen naturel d'égoutter complètement la terre du requérant serait par l'intermédiaire de la vieille conduite de bois.

En vue de résoudre ce problème, il semble qu'il soit nécessaire de déterminer, aussi près que possible, quelles étaient les conditions lors de la construction du chemin de fer jusqu'au moment—que l'on dit être en 1913—où le chemin de fer a installé le tuyau de béton pour égoutter sa propriété et qu'il a en même temps bloqué la vieille conduite de bois.

Le témoin Atchie Duguay, âgé de 73 ans, qui demeure à Saint-François de Sales depuis 60 ans, a affirmé dans son témoignage (voir p. 4367 de la preuve) qu'il se rappelait qu'il y avait un fossé à ciel ouvert du côté nord de la voie ferrée qui permettait à l'eau de s'écouler vers le nord dans la rivière des Mille-Isles; que le fossé se remplissait de temps en temps; que, finalement, le chemin de fer a installé la conduite de bois et qu'il l'a recouverte et que cet état de choses a existé jusqu'à ce que le chemin de fer ait construit sa gare, posé le tuyau de béton et rempli une dépression sur sa propriété en bloquant en même temps le débouché de la conduite de bois.

Preuve a aussi été produite indiquant que le requérant avait protesté auprès du chemin de fer par document légal portant la date du 12 mai 1913. A cet égard, on notera ci-dessus que la compagnie de chemin de fer a construit la gare de Saint-François de Sales vers l'année 1912 et je cite en particulier un paragraphe tiré du document légal précité, qui se lit comme suit:

“Conséquemment, nous, à la suite de la demande précitée, avons ordonné à ladite compagnie d'entreprendre immédiatement les travaux nécessaires à ce fossé de façon que leur terrain puisse s'égoutter comme dans le passé.”

Le paragraphe précité implique clairement qu'avant que la compagnie de chemin de fer ait construit sa gare à Saint-François de Sales, ait posé la conduite de béton et ait bloqué la conduite de bois, la propriété du requérant était bien égouttée par l'intermédiaire de ladite conduite de bois.

Vers la fin de l'audition, la compagnie de chemin de fer, s'efforçant de régler la question, a soumis une offre finale, à savoir, qu'elle creuserait et élargirait à ses propres frais le fossé de façon que la terre du requérant soit complètement égouttée mais qu'elle n'assumerait pas par la suite les frais d'entretien. Cependant, le requérant n'a pas consenti à accepter cette offre et, à mon avis, vu les objections soulevées par un autre propriétaire, tel que ci-devant mentionné, cela n'aurait été d'aucun bénéfice au requérant à moins que la compagnie ne soit arrivée à une entente avec les autres propriétaires concernés.

A l'audition l'avocat du chemin de fer a soulevé la question de “prescription”. Dans sa réplique la compagnie ne s'y était pas référée mais dans son plaidoyer l'avocat de la compagnie a soutenu que le droit du requérant à un redressement était prescrit. A l'appui de ce qu'il prétendait, il cita l'article 2242 du code civil de la province de Québec (p. 4413 de la preuve) et il se rapporta également à l'article 270 de la Loi des chemins de fer. A mon point de vue, ces deux articles ne s'appliquent pas au cas présent, vu que la présente requête est basée sur l'article 269 de la Loi des chemins de fer, qui dit en partie que chaque fois qu'une municipalité ou un propriétaire désire obtenir des moyens de drainage, ladite municipalité ou ledit propriétaire peut s'adresser à la Commission à cet effet. Il n'est pas question de prescription dans cet article.

D'après le rapport de l'ingénieur de la Commission et d'après le plan produit comme pièce n° 1 et les témoignages déposés à l'audition, dans mon opinion, la terre du requérant s'égouttait autrefois par l'intermédiaire de la

conduite de bois en question. La compagnie, ayant obstrué l'orifice d'émission de ladite conduite de bois, doit assumer la responsabilité du fait que la terre du requérant n'est pas convenablement égouttée.

Je conclus que l'égouttement à l'endroit en question n'est pas suffisant et je suis d'opinion que la compagnie de chemin de fer devrait être enjointe d'effectuer la construction requise pour rétablir la conduite de bois telle qu'elle existait avant qu'elle soit remplie, afin de fournir un égouttement libre; ou, alternativement, de creuser et d'entretenir le fossé à ciel ouvert à travers la propriété de M. Vézina et des autres propriétés situées entre la voie ferrée et la rivière aux fins d'obtenir les mêmes résultats. Si la compagnie décide de choisir la seconde alternative, elle devra informer la Commission de sa décision dans un délai de trente (30) jours de la date de la présente.

A SYLVESTRE

OTTAWA, le 22 août 1952.

J'agrée,

H. B. CHASE.

In the matter of the application of the Town of Gladstone, Manitoba, for additional protection at the crossing of the Canadian National Railways, and the Canadian Pacific Railway tracks and Morris Street in the said town. And in the matter of the apportionment of the cost of such additional protection, if ordered by the Board.

File No. 9437-732

Present:

Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

Mr. FRANK M. MACPHERSON, *Commissioner.*

Appearances:

C. C. MILLER, Q.C., for the Town of Gladstone.

Mayor JOHN PAXTON, Councillor R. B. PROSSER, R. M. STRACHAN, Secretary-Treasurer, Town of Gladstone.

K. D. M. SPENCE, for the Canadian Pacific Railway Company.

A. H. HART, for the Canadian National Railways.

JUDGMENT

MACPHERSON, Commissioner:

The hearing was held in the Court House at Portage la Prairie, on the afternoon of May 19, 1952.

In the submission of the Town of Gladstone, it was pointed out that the town was deeply concerned about the railway crossings at Morris Street in the centre of town. Correspondence between the Town of Gladstone and the two railways and the Board of Transport Commissioners dates back to the latter part of 1942. The Board held a hearing in the City of Portage la Prairie on August 21, 1944, dealing with the applications for improved protection at the Dennis Street and Morris Street crossings by extending the time of the watchmen on duty.

At that time No. 4 Highway passed through Gladstone using Dennis Street. Since then No. 4 Highway has been re-routed with the result that at this hearing the Morris Street crossing is the only one the town is really concerned about as this is the main street.

Counsel for Gladstone points out that the town does not oppose automatic protection with short-arm gates and flashing lights and bell but takes the position that the cost of same should be borne by a grant from the Railway Grade Crossing Fund and the remainder of the cost, together with the cost of maintenance and operation, divided equally between the two railways involved, viz., the Canadian National Railways and the Canadian Pacific Railway Company. The town bases this contention on the fact that it is in no financial position to bear any portion of the cost of either installation or maintenance. Counsel for the town further stated that it was agreed by both railways that Morris Street is senior and that the railways had constructed their tracks through the business section which was unusual. The town contended that the railways paid for the watchmen on duty at the crossing and that the installation of automatic protection would relieve them of this expenditure and that it was in the interests of the railways to make the change as the saving in the watchmen's salaries over the years would be considerable.

The town submitted there had been five accidents since the 1944 hearing and that on April 26, 1952, several children were nearly hit when a locomotive was backing up, the accident only being avoided due to quick thinking on the part of adults on the spot. Traffic over the crossing is fairly heavy but the town takes the stand it is only supporting this application on the condition no costs are assessed against the town. The fact that both railways cross the street close together constitutes a hazard in the built-up section and the town feels that the railways can, without added expense to themselves over the years and, in fact, at a saving, install the protection asked for, thereby affording twenty-four hour protection at this crossing.

The railways, in their submission, pointed out that in their traffic count taken on May 15, 1952, 1,200 vehicles and 1,446 pedestrians used this crossing and stated that in fact the town was bringing this additional hazard and should pay some part of the cost of putting in better protection. The railways stated the reason they had been assessed the cost of maintenance and provided watchmen was that in 1912, when the crossing was put in, the highway traffic only amounted to 100 vehicles and 1,000 pedestrians a day.

The Canadian National Railways submitted an estimate of the cost of automatic protection at this crossing as \$16,000 with \$900 maintenance charges. This was agreed to by the Canadian Pacific Railway Company, with the exception they estimated the cost of maintenance at \$450.

Before the hearing closed Counsel for the Town of Gladstone stated that the officials of the town in attendance had authorized him to state that they would ask Council to reconsider their stand and make a contribution of \$1,000 towards the cost of installation only.

This special session of the Council was called on May 20, 1952 in the Council Chambers of the Town of Gladstone and, through Counsel for the town, the Board is in receipt of the Resolution passed at that meeting, signed by the Mayor, Mr. John Paxton, in which it is stated that the Town of Gladstone is prepared to pay \$1,000 towards the capital cost of the protection, provided that no maintenance or other costs are assessed against the town.

Following this, the Board received a joint letter from the Canadian National Railways and the Canadian Pacific Railway Company, dated June 30, 1952, dealing with the proposal of the town to contribute \$1,000 towards the capital cost of the proposed protection at Morris Street and while they feel it is unfair

to establish a precedent they recognized that there are exceptional circumstances in this present case and that, without prejudice and strictly upon the condition that no precedent will be established either in respect of this crossing or any others, they are prepared to accept the offer of the Town of Gladstone, the cost of installation to be apportioned as follows:

Railway Grade Crossing Fund	—40%
Town of Gladstone	—\$1,000
Balance: One-half to Canadian National Railways	
One-half to Canadian Pacific Railway Company.	

The cost of maintenance and operation will be shared equally between the two railways.

Therefore, the Board, based on this agreement, will issue an Order that 40% of the cost of installing short arm gates, flashing light signals and bell, not exceeding, however, the sum of \$6,400, be paid from the Railway Grade Crossing Fund, the Town of Gladstone to pay the sum of \$1,000 towards this installation, the remainder of the installation costs, as well as the cost of maintenance and operation to be borne and paid 50% by the Canadian National Railways and 50% by the Canadian Pacific Railway Company.

Order to issue accordingly.

FRANK M. MacPHERSON.

OTTAWA, August 25, 1952.

I have read the judgment prepared by my colleague Commissioner MacPherson, in this case, and I concur therein.

JOHN D. KEARNEY.

ORDER No. 79652

In the matter of the application of the Town of Gladstone, Manitoba, for additional protection at the crossing of the Canadian National Railways and the Canadian Pacific Railway tracks and Morris Street in the said town.

And in the matter of the apportionment of the cost of such additional protection if ordered by the Board.

File No. 9437-732

WEDNESDAY, the 27th day of August, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the application at a sittings of the Board held in Portage la Prairie, Manitoba, on May 19, 1952, in the presence of Counsel for the Town of Gladstone, the Canadian Pacific Railway Company and the Canadian National Railways and representatives of the Town of Gladstone—

It is ordered

1. That, within six months from the date of this Order the Canadian National Railways and the Canadian Pacific Railway Company install and maintain two short arm automatic gates, two flashing light signals and one bell, in lieu of the present watchman, at the multiple track crossing of Morris Avenue and the Canadian National Railways (single track) mileage 92.3 Gladstone Subdivision, and the Canadian Pacific Railway Company (single track) mileage 35.1 Minnedosa Subdivision, in the Town of Gladstone, in the Province of Manitoba.

2. That the protection hereby ordered be installed in accordance with the provisions of General Orders Nos. 607 and 676; a detailed plan showing the layout thereof to be submitted for the approval of the Board.

3. That forty per cent of the cost of installing the said short arm gates, flashing light signals and bell, not exceeding, however, the sum of \$6,400.00, be paid out of the Railway Grade Crossing Fund, \$1,000.00 of the installation cost be borne and paid by the Town of Gladstone, and the remainder of the installation cost, as well as the cost of maintenance and operation, be borne and paid fifty per cent by the Canadian National Railways and fifty per cent by the Canadian Pacific Railway Company.

JOHN D. KEARNEY,
Chief Commissioner.

OTTAWA, September 3, 1952.

Amendment No. 1,

to

CIRCULAR NO. 272

File No. 45464.1—Reduction in freight rates between points in Eastern Canada and points in Western Canada, pursuant to Section 18, Chapter 22, 15-16 George VI.

Circular No. 272 dated April 16, 1952, is hereby amended by cancelling therefrom paragraphs numbered 1 and 2, on pages 2 and 3, and substituting the following in lieu thereof:—

“1. Subject to the provisions of sub-section 5, section 314 of the Railway Act, and to the exceptions in the next succeeding paragraph, and as stated herein, a reduction in freight rates, as hereinafter stated, shall be made on traffic from Eastern Canada to Western Canada, and vice versa, passing over lines of railway through Franz, Oba and Hearst, Ontario,

EXCEPT:

- (a) traffic having both its origin and destination, or originating at, or terminating at points on the lines of railway stated in (b), (c), and (d);
- (b) CANADIAN PACIFIC RAILWAY—between, but not including, Sudbury and Port Arthur-Fort William, Ontario.
- (c) CANADIAN NATIONAL RAILWAY—between, but not including:
 - i. Capreol and Armstrong, Ontario.
 - ii. Capreol and Port Arthur-Fort William, Ontario.
 - iii. Cochrane and Armstrong, Ontario.
 - iv. Cochrane and Port Arthur-Fort William, Ontario.
- (d) ALGOMA CENTRAL AND HUDSON BAY RAILWAY—all stations other than Sault Ste. Marie, Ontario.”

“2. The provisions of the last preceding paragraph shall not apply with respect to the following traffic:

Commodities described in specifically designated Grain and Grain Products tariffs, including the said commodities when listed in other tariffs.

Coal from Alberta and Eastern British Columbia to Ontario that is subject to subsidized freight rates:

Competitive traffic designated as such in the railways' tariffs (other than traffic that is subject only to the short line competition of railways in Canada):

International traffic between Canada and the United States of America, or to or from other countries via such states:

Traffic moving between points in the United States of America passing through Canada:

Export and Import traffic to or from Canadian ports not charged domestic rates:

Traffic governed by Agreed Charges.”

By Order of the Board,

E. R. HOPKINS,

Secretary.

ORDER No. 79665

In the matter of the application of the Railway Association of Canada, on behalf of its member lines, dated the 6th August, 1952, for rescission of Orders Nos. 586 and 641:

File No. 666

THURSDAY, the 28th day of August, A.D. 1952

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the applicant has submitted that the companies owning or operating railway lines in Ontario no longer find it convenient or expedient to compute their rates on freight traffic for export to Canadian and United States Atlantic seaboard on the basis of percentages of co-existent rates from Chicago to New York:

And whereas the said companies intend to revise such export rates by the filing of new tariff schedules based upon the contemporaneous Detroit to New York rates as "key" rates from Windsor, Ontario, with rates from other points related thereto:

And whereas the provisions of the said Orders Nos. 586 and 641 are now inappropriate:

It is ordered that Orders Nos. 586, dated the 25th July, 1905, and 641, dated the 4th September, 1905, be, and they are hereby, rescinded without prejudice to the rights of any person to make relevant representations respecting the revised tariff schedules as and when so filed.

A. SYLVESTRE,

Deputy Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JUNE, 1952

Railway Accidents	314	Killed 25	Injured 365
Level Crossing Accidents	34	Killed 14	Injured 50
Totals.....	348	39	415

	<i>Killed</i>	<i>Injured</i>
Passengers	0	88
Employees	4	256
Others	35	71
Totals.....	39	415

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NEWFOUNDLAND

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.

NOVA SCOTIA

1	1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-27887.
---	---	---	---

NEW BRUNSWICK

1	3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 55286.
---	---	---	---

QUEBEC

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 121-424.
1	—	1	Automobile ran into side of train. Licence: Que. T-936.
1	1	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 90-256.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 18-621.
1	—	1	Automobile ran into side of train. Licence: Que. 315-477.
1	—	5	Automobile ran into side of train. Licence: Que. 256-086.
1	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 145-646.

ONTARIO

1	—	1	Pedestrian walked onto track in front of approaching train and was struck.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. C-948.
1	—	4	Automobile ran into side of train. Licence: Ont. H-6633.
1	1	—	Truck ran into side of train. Licence: Ont. C-49699.
1	—	3	Auto truck drove onto crossing in front of approaching track motor car and was struck. Licence: Ont. C-74300.
1	—	1	Automobile ran into side of train. Licence: Ont. 27-P-21.
1	—	1	Automobile ran into side of train. Licence: Ont. 637305.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. B-43123.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-3078.
1	—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	1	Auto truck ran into side of train. Licence: Ont. 84948C.
1	—	1	Pedestrian walked onto crossing in front of approaching train and was struck.

MANITOBA

Accidents K. I.

- | | | | |
|---|---|---|---|
| 1 | — | 1 | Auto taxi drove onto crossing in front of approaching train and was struck. Licence: Man. 175. |
| 1 | 3 | — | Automobile ran into side of train. Licence: Man. 9-M-663. |
| 1 | 1 | 3 | Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 4-E-292. |

SASKATCHEWAN

- | | | | |
|---|---|---|---|
| 1 | — | 1 | Automobile ran into side of train. Licence: Sask. 32-490. |
| 1 | — | 3 | Automobile ran into side of train. Licence: Man. 7-N-671. |
| 1 | 1 | — | Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 89-569. |
| 1 | — | 1 | Automobile ran into side of train. Licence: Sask. 22-449. |
| 1 | — | 4 | Automobile ran into side of train. Licence not given. |

ALBERTA

- | | | | |
|---|---|---|--|
| 1 | — | 1 | Automobile drove onto crossing in front of approaching track motor car and was struck. Licence: Alta. 73-S-29. |
| 1 | 1 | — | Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. F-140932. |
| 1 | — | 1 | Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 76-H-95. |

BRITISH COLUMBIA

- | | | | |
|---|---|---|--|
| 1 | — | 1 | Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-57-554. |
|---|---|---|--|

Of the 34 accidents at highway crossings, 32 occurred at unprotected crossings, and 2 at protected crossings. Twenty-five accidents occurred after sunrise and nine after sunset.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79569 Aug. 14—Authorizing the R. M. of Cory No. 344 to raise the approaches on both sides of the crossing of the C.N.R. and Lorne Ave., Nutana, Sask.
- 79570 Aug. 14—Approving supplement to Traffic Agreement between The Bell Telephone Co. and the Muskoka & Parry Sound Telephone Co. Ltd.
- 79571 Aug. 14—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Haley's Station Telephone Co. Ltd.
- 79572 Aug. 14—Requiring the C.P.R. to install protection at crossing of Highway No. 10 at Holland Centre, Ont.
- 79573 Aug. 14—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Fort Coulonge Rural Telephone Co. Ltd.
- 79574 Aug. 14—Approving plan showing deviation in location of Trans Mountain Oil Pipe Line Co. within Municipality of Chilliwack, B.C.
- 79575 Aug. 14—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line from Township of Clarke to Township of Darlington, County of Durham, Ont., and from Township of Cornwall to Township of Osnabruck, County of Stormont, Ontario.
- 79576 Aug. 14—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line from Township of Clarke to Township of Darlington, County of Durham, Ont., and from Township of Cornwall to Township of Osnabruck, County of Stormont, Ontario.
- 79577 Aug. 14—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line from easterly shore of Lake of Two Mountains Parish of St. Joseph du Lac to Parish of St. Polycarpe, Province of Quebec.
- 79578 Aug. 15—Authorizing the Canadian Chemical Co. Ltd., to construct gas pipe line across right of way of Interprovincial Pipe Line Co. at 6-53-23 W4M., Province of Alberta.
- 79579 Aug. 15—Approving proposed location of storage tanks, etc., of C.N.R. near their tracks at Newcastle, N.B.
- 79580 Aug. 18—Authorizing the C.P.R. to construct a siding extension across road allowance near Antelope, Sask.
- 79581 Aug. 18—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway at Graham's Bay, Ontario.
- 79582 Aug. 18—Authorizing the Village of Barons, Alta., to construct Milnes Street across C.P.R. at Barons, Alta.
- 79583 Aug. 18—Authorizing the C.N.R. to use bridge at mileage 106.5 Carman Subdivision, Province of Manitoba.
- 79584 Aug. 18—Approving proposed location of storage tank, etc., of The Ontario Paper Co. Ltd., near C.N.R. tracks at Thorold, Ont.
- 79585 Aug. 18—Approving proposed location of storage tanks, etc., of C.N.R. near their tracks at Sackville, N.B.
- 79586 Aug. 18—Authorizing the C.P.R. to construct a siding extension across the road allowance near Webb, Sask.
- 79587 Aug. 18—Authorizing the C.P.R. to construct a siding extension near Cardell, Sask.
- 79588 Aug. 18—Authorizing the C.P.R. to construct a siding extension across Highway No. 1 near Piapot, Sask.
- 79589 Aug. 18—Permitting the removal of slow order at C.P.R. crossing of Rockland Ave., Outremont, Que.
- 79590 Aug. 18—Authorizing the Village of Barry's Bay, Ont., to construct a road across the C.N.R. at Barry's Bay, Ont.
- 79591 Aug. 19—Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 5 across the C.N.R. near Denholm, Sask.
- 79592 Aug. 19—Authorizing the C.P.R. to construct a siding extension across the road at Maple Creek, Sask.
- 79593 Aug. 19—Authorizing the C.P.R. to construct a siding extension across the road allowance near Sidewood, Sask.
- 79594 Aug. 19—Approving operation of C.P.R. trains over private siding serving H. R. MacMillan Sales (Quebec) Ltd., LaSalle, Que.
- 79595 Aug. 19—Authorizing the Township of South Hull to construct the highway across the C.P.R. at Deschenes, Que.
- 79596 Aug. 19—Authorizing the C.N.R. to construct its railway across the roadway in Township of Thurlow, Ontario.
- 79597 Aug. 19—Approving operation of C.P.R. trains over private siding serving B. F. Sturevant Co. of Canada, Ltd., at Galt, Ont.
- 79598 Aug. 19—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in Lake of Two Mountains.
- 79599 Aug. 19—Approving re-location of the C.P.R. station at St. Constant, Que.
- 79600 Aug. 19—Permitting the removal of slow order at C.N.R. crossing east of station at Kapuskasing, Ont.

- 79601 Aug. 19—Permitting the removal of slow order at Chesapeake & Ohio Rly. crossing of Stevenson Road, Stevenson, Ont.
- 79602 Aug. 19—Permitting the removal of slow order at C.P.R. crossing near mileage 73-0 Wetaskiwin Subdivision, Alta.
- 79603 Aug. 19—Approving proposed location of storage tank, etc., of the Canadian General Electric Co. Ltd., near C.N.R. tracks at Barrie, Ont.
- 79604 Aug. 19—Amending Order No. 79042 dated May 26, 1952, *re* crude oil loading facilities at Mirror, Alta.
- 79605 Aug. 19—Amending Order No. 73829 dated January 24, 1950, *re* industrial spur line of the C.N.R. serving Imperial Oil Co., Sarnia, Ont.
- 79606 Aug. 19—Approving automatic block signals from mileage 19-4 to mileage 8 on the eastward track of Shuswap Subdivision, British Columbia.
- 79607 Aug. 19—Authorizing the C.P.R. to close crossing between NE 1-7 and NW 1-8-43-R10-W4M, at mileage 5-81, Wetaskiwin Subdivision, Alta.
- 79608 Aug. 19—Authorizing the C.N.R. to construct its railway upon Moore St., St. Clair Ave., Clifford St., Ottawa St., etc., in South Sarnia, Ont.
- 79609 Aug. 20—Approving operation of C.N.R. trains over private siding of B. A. Shawinigan Ltd., Montreal East, Que.
- 79610 Aug. 20—Outlining the list of documents in case to be filed on appeal from order of the Board to the Supreme Court of Canada in the matter of reduction in freight rates between points in Eastern Canada and points in Western Canada pursuant to Ch. 18 of Ch. 22 of Statutes of Canada, 15-16 Geo. VI.
- 79611 Aug. 20—Amending Order No. 77797 dated November 22, 1951, *re* Imperial Oil Ltd. loading facilities at Belloy, Alta. (N.A. Rlys.).
- 79612 Aug. 20—Permitting the removal of slow order at C.N.R. crossing just west of Sylvan Lake Yard, Alta.
- 79613 Aug. 20—Amending Order No. 75983 dated January 25, 1951, directing the C.N.R. to close the existing crossing of Highway No. 62 and their spur at Bannockburn, Ont.
- 79614 Aug. 20—Approving plan showing changes to interlocking plant of the E. & N. Rly. at crossing of Canadian Collieries Ltd. near Royston, B.C.
- 79615 Aug. 20—Approving supplements to tariffs filed by the Bonaventure & Gaspé Telephone Co.
- 79616 Aug. 21—Approving proposed location of storage tank, etc., of Canadian Oil Companies Ltd., near C.N.R. tracks at Granby, Que.
- 79617 Aug. 21—Requiring the C.P.R. to install protection at crossing of Highway No. 34 in the Municipality of Township of Ditchfield-Spaulding, County of Frontenac, Quebec.
- 79618 Aug. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.P.R. tracks at Assiniboia, Sask.
- 79619 Aug. 21—Approving Service Station Contract between The Bell Telephone Co. and Union Telephone Co. Ltd.
- 79620 Aug. 21—Approving plan showing proposed modification of the track layout and changes in the interlocked signals between Central Station and Mount Royal Station. (C.N.R.)
- 79621 Aug. 21—Permitting the removal of slow order at C.P.R. crossing of Gladstone Ave., Yorkton, Sask.
- 79622 Aug. 21—Authorizing the Quebec Department of Roads to re-align and widen Highway No. 38 across the C.N.R. in Village of Ste. Martine, Que.
- 79623 Aug. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Turtleford, Sask.
- 79624 Aug. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Sioux Lookout, Ont.
- 79625 Aug. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Vassar, Man.
- 79626 Aug. 21—Authorizing the Quebec Department of Roads to re-align and widen Highway No. 36 across the C.N.R. in Municipal Village of Ste. Martine, Que.
- 79627 Aug. 21—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 79628 Aug. 21—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79629 Aug. 25—Relieving the D.A.R. from publishing notice of application in *re* running rights over the railway of Her Majesty between Windsor Junction and Halifax in the *Canada Gazette*.
- 79630 Aug. 25—Recommending to Governor in Council for sanction of agreement between Her Majesty the Queen with reference to running rights over the railway of Her Majesty between Windsor Junction and Halifax.
- 79631 Aug. 25—Relieving the D.A.R. from publishing in the *Canada Gazette* notice of application in *re* use of railway facilities of Her Majesty, at Truro, N.S.

- 79632 Aug. 25—Recommending to Governor in Council for sanction of agreement between Her Majesty the Queen with reference to the use by D.A.R. of the railway facilities of Her Majesty at Truro, N.S.
- 79633 Aug. 25—Authorizing Bell Telephone Co. to construct, erect and maintain its lines or lines of telephone upon and along a certain highway in Township of Harwich, County of Kent, Ontario.
- 79634 Aug. 25—Authorizing The Bell Telephone Co. to construct its lines of telephone upon and along certain public highways in County of Kent, Ontario.
- 79635 Aug. 25—Approving revised plan showing relocation of highway across C.P.R. in Parish of St. Jerome, County of Terrebonne, Quebec, mileage 15·70 St. Agathe Subdivision.
- 79636—Aug. 25—Authorizing the C.P.R. to construct, maintain and operate proposed industrial spur track from mileage 2·3 La Riviere Subdivision, and at grade across Empress St., Winnipeg Man.
- 79637 Aug. 25—Permitting removal of slow order at C.P.R. first crossing south of Delson Station, Que., mileage 34·55 Adirondack Subdivision, all switching movements over said crossing to be protected by member of train crews.
- 79638 Aug. 25—Approving Service Station Contract between The Bell Telephone Co. and Canadian International Paper Co.
- 79639 Aug. 25—Authorizing C.P.R. to construct, maintain and operate proposed extension to branch line of railway to serve Westgate Packers Ltd.
- 79640 Aug. 25—Authorizing C.N.R. to reconstruct bridge which carries the highway located on the north and south road allowance between Secs. 4 and 5, Twp. 53, Rge. 22, W4M, across its tracks at mileage 112·4 Viking Subdivision, Alberta.
- 79641 Aug. 25—Authorizing Department of Public Works of British Columbia to construct, maintain at its own expense, Trail-Salmo highway across right of way of Great Northern Rly. at mileage 162·82 Nelson, Fort Sheppard & Spokane Branch near Erie, B.C.
- 79642 Aug. 25—Authorizing Department of Public Works, Newfoundland, to construct and maintain the highway across right of way of C.N.R. at mileage 458·97 Port Aux Basques Subdivision, Newfoundland; C.N.R. to close existing crossing located 250 feet east of crossing hereby authorized.
- 79643 Aug. 25—Approving proposed location of connecting pipe lines, etc., of McColl-Frontenac Oil Co. near C.N.R. tracks at Causapsal, Que.
- 79644 Aug. 25—Permitting removal of slow order at C.N.R. crossing of Nebo Road, Township of Glanford, Ont., mileage 7·87 Hagersville Subdivision.
- 79645 Aug. 25—Directing that no engine, car or train shall pass over C.N.R. crossing of Beach Road, Hamilton, Ont., mileage 3·01 Grimsby Subdivision, at a speed greater than five miles an hour.
- 79646 Aug. 25—Sanctioning and approving operation of C.P.R. over private siding of Canadian Cannery Ltd., Morden, Man.
- 79647 Aug. 25—Authorizing Department of Public Works, B.C., to construct and maintain, its highway across right of way of C.P.R. in Town of Denver Canyon, B.C., mileage 30·7 Kaslo Subdivision.
- 79648 Aug. 25—Authorizing Department of Public Works, B.C., to re-locate highway across right of way of C.P.R. at Okanagan Falls, B.C., mileage 10·38 Osoyoos Subdivision.
- 79649 Aug. 26—Authorizing C.N.R. to remove station agent and appoint a caretaker at Grosse Isle, Man.
- 79650 Aug. 26—Permitting removal of slow order at C.N.R. first crossing north of Rouses Point Station, in the State of New York, U.S.A., mileage 45·97, Rouses Point Subdivision.
- 79651 Aug. 26—Authorizing C.P.R. to remove caretaker-agent and appoint a caretaker at Lac à la Tortue Station, Que.
- 79652 Aug. 27—Requiring the C.N.R. and C.P.R. to install protection in lieu of present watchman, at multiple track crossing of Norris Ave., Gladstone, Man.
- 79653 Aug. 27—Authorizing Trans Mountain Oil Pipe Line Co. to construct its pipe line across the Raft River, Dist. Lot 1716, Kamloops Division, Yale Dist., B.C.
- 79654 Aug. 27—Authorizing Trans Mountain Oil Pipe Line Co. to construct its pipe line across Miette River in N.E. ¼ of S. 13, T. 45, Rge. 4, W6M, within Jasper National Park, Alberta.
- 79655 Aug. 27—Approving and authorizing Niagara, St. Catharines & Toronto Rly. Co.'s clearances at siding serving the Welland Vale Manufacturing Co. Ltd., St. Catharines, Ont., near mileage 1·41 Port Dalhousie Subdivision.
- 79656 Aug. 27—Directing that no engine, car or train shall pass over C.P.R. crossing of Keewatin St., Winnipeg, Man., mileage 3·1 Carberry Subdivision.
- 79657 Aug. 27—Approving proposed location of connecting pipe lines, etc., of Imperial Oil Ltd. near C.N.R. tracks at Middle Musquodoboit, N.S.
- 79658 Aug. 27—Amending Order No. 78864, dated May 1, 1952, re approval of tolls published in certain tariffs filed by the D.A.R. under Section 9 of Maritime Freight Act.

- 79659 Aug. 27—Authorizing Corporation of Township of York, Ont., to construct and maintain Castlefield Ave. across right of way of C.N.R. in Township of York, Ont., at mileage 6·89 Newmarket Subdivision, C.N.R. to install and maintain two flashing light signals and one bell at said crossing; crossing hereby authorized not to be opened for highway traffic until the protection hereby ordered has been installed and put in operation.
- 79660 Aug. 28—Dismissing application of Robin Hood Flour Mills Ltd., and others *re* stop-off and out-of-line haul charges on grain and grain products in Western Canada.
- 79661 Aug. 28—Authorizing C.P.R. Co. to construct an extension to bridge over Maple Creek, west of Maple Creek Station, Sask., mileage 84·92 Maple Creek Subdivision.
- 79662 Aug. 28—Approving certain revisions to tariffs filed by the Bell Telephone Co. of Canada.
- 79663 Aug. 28—Relieving C.P.R. from erecting and maintaining cattle guards at certain crossings Province of Saskatchewan.
- 79664 Aug. 28—Permitting removal of slow order at C.P.R. first crossing west of C.P.R. station in Village of Petawawa, Ont., mileage 103·61 Chalk River Subdivision.
- 79665 Aug. 28—Rescinding Orders Nos. 586, dated the 25th July, 1905, and 641, dated the 4th September, 1905, *re* rates on freight traffic for export to Canadian and United States Atlantic seaboard on the basis of percentages of co-existent rates from Chicago to New York.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, October 1, 1952

No. 13

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Canadian Pacific Railway Company under Section 251 of the Railway Act for authority to reconstruct the bridge over the Applicant's railway in line with Notre Dame Street in the City of Montreal, mileage 1.5, Park Avenue Subdivision.

File No. 27275

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

L. G. PREVOST, Q.C., F. S. BURBRIDGE, for the Canadian Pacific Railway Company.

DAWSON A. McDONALD, Q.C., for the City of Montreal.

JOHN LETOURNEAU, Q.C., for the Montreal Transportation Commission.

JUDGMENT

KEARNEY, J., Chief Commissioner:

On December 6, 1950 the Canadian Pacific Railway Company, hereinafter referred to as the "Railway", applied to the Board under Section 251 of the Railway Act for authority to reconstruct the bridge over its railway in line with Notre Dame Street, Montreal, at mileage 1.5, Park Avenue Subdivision as shown on plans Nos. 48877 and 48877-1 dated July 17, 1950.

In its application the Railway stated that the design as shown on the plans provided for a structure having a capacity of 20 tons, whereas the existing structure was designed to carry 10 tons; that the increased capacity has been provided due to representations by the City of Montreal as to the strength of the structure that the City requires; that the increased cost of the structure to provide for the said increase in capacity is estimated at \$25,000; and that the City of Montreal should contribute this amount, or 20 per cent of the cost of

construction, together with 20 per cent of the cost of maintenance, and that the balance of the costs of construction and maintenance should be apportioned 75 per cent to the Railway and 25 per cent to Montreal Tramways Company, except in respect of the wearing surface, the cost of construction and general maintenance of which should be apportioned by the City of Montreal and the Montreal Tramways Company in accordance with the Board's Order No. 35209 dated May 21, 1924 which is referred to hereinafter.

The City of Montreal in its answer to the application stated, *inter alia*, that the existing wooden bridge is inadequate, unsuitable and unsatisfactory, subject to destruction by fire and does not and will not afford safe and adequate facilities for all traffic passing over it; that the representations made by the City of Montreal were that a bridge of reinforced concrete or concrete and steel encased in concrete should be provided; that the highway at the location is senior to the railway and that the City has not at any time been ordered to pay any of the cost of construction or of maintenance of the bridge at this location with the exception of the cost of construction and maintenance of that part of the wearing surface of the portion thereof within and between tramway tracks and eighteen inches on either side thereof which have been constructed and maintained by the Montreal Tramways Company. The City objects to being required to pay any part of the general cost of construction and maintenance but is willing to continue to pay as heretofore its share of the cost of maintaining the wearing surface of the bridge.

The Montreal Tramways Company in its answer to the application objected to the suggested contribution to be made by it and stated, *inter alia*, that the reconstruction of the bridge and the proposed increased capacity is necessitated by the greatly increased automobile and truck traffic operating on the bridge and that the reason for the Order of the Board, made when the bridge was reconstructed in 1917, requiring that Company to pay one-fourth of the cost of reconstruction, is no longer applicable due to the fact that the proposed reconstruction is necessitated by the greatly increased volume of traffic operating on the bridge as well as the greatly increased weight of the types of automobiles and trucks now using the bridge, and that this reconstruction with increased capacity would be required even if the Company's street cars did not operate on the bridge. The Company objected to being called upon to pay any of the cost of construction or maintenance other than maintaining its track and the paving in the track area.

The application remained in dispute and was heard in Montreal on March 11, 12, 13 and 14, 1952. Mention will be made herein of a number of relevant facts given in evidence at the hearing.

The overhead bridge where Notre Dame Street crosses the railway tracks at mileage 1.5, Park Avenue Subdivision, was first constructed in 1876 by the Government of Quebec for the Quebec, Montreal and Occidental Railway. The bridge was demolished in 1916 due to an accident involving an engine of the Railway and was repaired hurriedly to avoid interruption of traffic on May 4, 1917. The Railway was authorized to reconstruct this bridge by the Board's Order No. 26079, which apportioned the cost of this work thus—construction and maintenance, three-quarters to the Railway, one-fourth to the Montreal Tramways Company.

The Board issued a subsequent Order No. 35209 on May 21, 1924 after a hearing, and made the same apportionment of the general maintenance cost, with one modification that the top tier of planking be maintained by the City and the Montreal Tramways Company in accordance with their agreement dated January 28, 1918, namely, the Montreal Tramways Company to maintain that portion within and between its tracks and for eighteen inches on each side thereof, the remainder to be maintained by the City.

The bridge was rebuilt in 1887, 1902, 1916 and again in 1936.

The present bridge is 180 feet long, 50 feet wide between curbs, and there are two 6-foot sidewalks. There are two tramway tracks at 9 feet 6 inches centre to centre. The deck of the bridge consists of timber stringers to which the tramway rails are spiked, and there is 4 inch planking and a 3-inch wearing surface of asphalt. The structure has a capacity of H-10 loading.

The Railway and City of Montreal engineers consider that the bridge is beyond repair, and the necessity for a new bridge is not being questioned.

Although the parties concerned agree that the new bridge should be designed for a capacity of H-20 loading the Railway and the City of Montreal disagree on the kind of bridge to be constructed.

The Railway proposes a timber bridge which the Railway contends to be adequate to handle all traffic.

The City of Montreal submits that Sections 251 and 264 of the Railway Act require a structure which will be best adapted to the protection, safety and convenience of the public, and that the Railway should build a structure which will afford safe and adequate facilities for traffic carried over it. The City submits that the kind of bridge which would conform with these sections of the Railway Act is a steel and concrete structure.

At the request of the Board the Railway prepared a general lay-out plan of a reinforced concrete bridge providing standard vertical and side clearances. This plan was submitted to the City of Montreal's engineers who agreed that the project is satisfactory.

After the filing of the application and before the date of hearing the Montreal Tramways Company ceased to operate the tramway system and its operation was taken over by the Montreal Transportation Commission. This Commission does not oppose the proposal of the Railway to replace the present bridge by a new wooden structure sufficient to carry the weight of the Commission's street cars. The position taken by this Commission at the hearing was substantially the same as the position of the Montreal Tramways Company outlined above.

The Montreal Transportation Commission indicated at the hearing that its street cars which are operating over the Notre Dame Street bridge will be detoured via the Ontario Street subway during the reconstruction of the bridge and consequently the cost of reconstruction will not be increased by the operation of the street cars during the reconstruction.

It was generally admitted by the engineers who appeared as witnesses at the hearing that the new bridge, if designed for H-20 loading, will not require to be made stronger to carry the street cars. In view of this we do not see any reason for apportioning any of the cost of construction or maintenance of the new bridge against the Montreal Transportation Commission, other than as hereinafter indicated in connection with necessary alterations in its tracks or trolley wires.

As already stated herein there is general agreement that the present bridge should be replaced but there is disagreement as to whether the replacement should be a timber or a steel and concrete bridge, and also disagreement as to the apportionment of the cost of construction and maintenance of the new bridge.

A timber bridge has a much shorter life than a steel and concrete bridge. A timber bridge at this location has been rebuilt four times since it was first constructed and now has to be rebuilt once more. Thus there has been only an average of fifteen years between reconstructions. In contrast, the life of a reinforced concrete bridge constructed in accordance with the plan prepared by the Railway at the request of the Board is estimated at seventy-five years.

Evidence was given at the hearing to the effect that the asphalt wearing surface of the existing bridge has had to be renewed twice yearly because of vibration. There would be less vibration in the deck of a timber bridge designed

for H-20 loading than in the present bridge but it is doubtful if the wearing surface of the H-20 timber bridge would last much longer than the wearing surface of the present bridge.

A reinforced concrete bridge would materially reduce the expense heretofore borne by the City of Montreal of maintaining the wearing surface. We estimate that if a reinforced concrete bridge is constructed the capitalized value of the annual saving by the City in respect of such maintenance expense would represent approximately 20 per cent of the cost of construction of the reinforced concrete bridge.

A timber bridge, because of the necessity of periodic replacement of the entire structure and frequent renewal of the deck would, unlike a reinforced concrete bridge, result in considerable inconvenience to highway traffic. Considering the nature and extent of highway traffic making use of this bridge such inconvenience, and the avoidance of it, are factors of some importance in connection with the kind of bridge to be authorized and the bearing of the cost thereof.

Nothing has been brought to our attention to indicate that there is any probability that the bridge will not be required for many years to come.

Taking everything into consideration it is our opinion that a reinforced concrete bridge should be provided; that the cost of construction, except of the asphalt wearing surface, should be borne 20 per cent by the City of Montreal and 80 per cent by the Canadian Pacific Railway Company; that the cost of construction and maintenance of the asphalt wearing surface be borne by that City, and the maintenance of the bridge by the C.P.R.; and that the cost of any alteration in the tracks and trolley wires of the Montreal Transportation Commission resulting from the reconstruction of the bridge should be borne by that Commission.

An order will therefore go authorizing the Canadian Pacific Railway Company to reconstruct the overhead bridge over its tracks in line with Notre Dame Street, Montreal, mileage 1.5, Park Avenue Subdivision, in accordance with General Lay-out Plan 16950, revised May 28, 1952; detailed plans to be submitted for the approval of an engineer of the Board; the bridge to be constructed in accordance with General Order No. 589; the cost of construction and maintenance of the bridge, including the asphalt wearing surface, and the cost of alteration aforesaid in the tracks and trolley wires of the Montreal Transportation Commission, to be borne in accordance with our opinion herein.

JOHN D. KEARNEY.

August 27, 1952.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 79676

In the matter of the application of the Canadian Pacific Railway Company under Section 251 of the Railway Act for authority to reconstruct the bridge over the Applicant's railway in line with Notre Dame Street in the City of Montreal, mileage 1.5, Park Avenue Subdivision:

File No. 27275

WEDNESDAY, the 3rd day of September, A.D. 1952

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application in the City of Montreal, in the Province of Quebec, on the 10th day of March, 1952, in the presence of Counsel for the Canadian Pacific Railway Company, the City of Montreal and the Montreal Transportation Commission—

It is ordered

1. That the Canadian Pacific Railway Company be, and it is hereby, authorized to reconstruct the overhead bridge over its tracks in line with Notre Dame Street, in the City of Montreal, in the Province of Quebec, in accordance with general lay-out Plan No. 16950, revised to May 28, 1952.

2. That the said overhead bridge be reconstructed in accordance with the provisions of General Order No. 589; detailed plans showing the layout thereof, to be submitted for the approval of an Engineer of the Board.

3. That the cost of reconstruction of the said bridge, except of the asphalt wearing surface, be borne twenty per cent by the City of Montreal and eighty per cent by the Canadian Pacific Railway Company; that the cost of maintenance of the bridge, except of the asphalt wearing surface, be borne by the Canadian Pacific Railway Company; that the cost of construction and maintenance of the asphalt wearing surface be borne by the City of Montreal; and that the cost of any alteration in the tracks and trolley wires of the Montreal Transportation Commission resulting from the reconstruction of the bridge be borne by that Commission.

A. SYLVESTRE,
Deputy Chief Commissioner.

In the matter of the application of Canadian National Railways, hereinafter called the "Applicant" for an order authorizing the Applicant to operate its engines, trains and cars across the public road in the Town of Pembroke, Ontario, to serve the sawdust loading mill of Pembroke Shook Mills Limited, shown on plan 1585-B on file with the Board under file No. 23085-4.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

JUDGMENT

BY THE BOARD:

In its application dated January 19, 1952, the Applicant, Canadian National Railways, stated that for many years the Applicant and Canadian Pacific Railway Company operated over private industrial spurs serving Pembroke Shook Mills Limited at Pembroke, Ontario, and that the spurs had recently been connected in front of the Shook Mills' warehouse by mutual consent of both railways. The application also stated that Pembroke Shook Mills Limited had recently requested the Applicant to place cars at the Company's sawdust loading mill adjacent to one of the said sidings, the one formerly operated exclusively by Canadian Pacific Railway Company, and that in order to comply with the request it will be necessary for the Applicant to operate over a public highway. The portion of trackage which crosses the highway is shown outlined in red on the plan attached to the application.

Accompanying the application was a copy of a resolution of the Town of Pembroke as follows:

"That we grant the request of Pembroke Shook Mills, Limited to permit the Canadian National Railway Company to operate its engines and equipment over the existing track across and a few feet just beyond the public road on the east side of their plant, so as to give them better service."

The application asked for an Order "authorizing the Applicant to operate its engines, trains and cars across the public road in the Town of Pembroke to serve the sawdust loading mill of the Pembroke Shook Mills Limited, all of which is more particularly shown on plan 1585-B hereto attached". The Board construes the application as being limited, so far as an authorization from the Board is requested, to the portion of trackage outlined in red on the plan.

Written submissions were made by both Railways at various times and they asked that the Board deal with the matter on the basis of correspondence before it.

The correspondence disclosed that the siding is a private siding of the Industry, Pembroke Shook Mills Limited, in respect of which that Company and Canadian Pacific Railway Company entered into a private siding agreement and that the agreement gives the C.P.R. exclusive rights to operate over the siding.

The Applicant submits that as the trackage in question is connected to the Applicant's tracks the Applicant is required under Section 312 of the Railway Act to give service to the Industry on its request and that the Board's only interest in the matter is the question of safety; that the siding agreement does not come under Section 35 of the Railway Act, as contended by the C.P.R.; also that any dispute between the Railways as to whether under the terms of the agreements covering construction and operation of the siding another railway can operate over the trackage, and any right of action the C.P.R. may have against the Industry for breach of the siding agreement, are matters for determination in the Provincial Courts.

The C.P.R. opposed the application. It stated that while it had consented to the use by the Applicant of a portion of the C.P.R. spur adjacent to the mill it had not consented to any further use of its tracks by the Applicant and objected to any further use. It also submits that the Industry, in view of the siding agreement, has no capacity to request the Applicant to operate over the siding and that the Order of the Board requested by the Applicant would be a condonation by the Board of a breach of an agreement which under Section 35 of the Railway Act the Board, according to the C.P.R., has a duty to see properly fulfilled; also that the C.P.R. has an exclusive right to operate over the siding, that the Applicant has no power or obligation to operate thereon, and that the Board has no jurisdiction to grant the Operating Order requested.

The Board does not consider that because such an agreement has been made the application should be refused. There is a dispute as to whether or not the agreement comes within Section 35 of the Railway Act, but even assuming that it does the submissions made to the Board do not disclose the circumstances and conditions which moved the Industry to request service of the Applicant and do not provide sufficient information to enable the Board to appraise the effects of breach or enforcement of the agreement or to exercise a discretion as to whether or not the agreement should be enforced. In any event the agreement can be adequately dealt with in the Provincial Courts, and in the absence of anything indicating that public interest might suffer should the Board not give effect to the agreement in this instance the Board considers that the matter of breach or enforcement should be left to the Provincial Courts.

It is not disputed that the Industry supports the application and that the Town of Pembroke has consented to the operation of the Applicant's trains across the highway which the siding crosses.

Some years ago at the request of Counsel for the C.N.R. and the C.P.R. the Board adopted the practice of granting, on the application of a railway company, an Order sanctioning and approving the operation of the Company's engines, cars and trains over a private siding connected with the railway. Counsel for the Railways submitted at that time that the Board has full power to regulate matters of public safety in respect of private sidings covered by siding agreements through its control of the railway's operations thereon. Operating orders issued by the Board in such cases contain a provision requiring that the operation of engines, cars and trains be in conformity with the provisions of the Railway Act, the General Orders and Regulations of the Board and the Operating Rules of the Railway Company.

The Board considers that it has jurisdiction in the present case to make the Order requested by the Applicant and that it would be consistent with its practice to grant the application.

An Order will therefore issue in the usual form in respect of the portion of the siding shown outlined in red on the plan on file herein.

JOHN D. KEARNEY,
A. SYLVESTRE,
F. M. MACPHERSON.
H. B. CHASE.

September 4, 1952.

ORDER No. 79708

In the matter of the application of Canadian National Railways, hereinafter called the "Applicant", for an Order authorizing the Applicant to operate its engines, trains and cars across the public road in the Town of Pembroke, Ontario, to serve the sawdust loading mill of Pembroke Shook Mills Limited, shown on plan 1585-B on file with the Board under file No. 23085-4:

SATURDAY, the 6th day of September, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the operation of the Applicant's engines, cars and trains over that portion of the private siding serving Pembroke Shook Mills Limited that is shown in red on the said plan on file with the Board under file No. 23085-4, be, and it is hereby, sanctioned and approved.

2. That the operation of engines, cars and trains hereby sanctioned and approved shall be in conformity with the provisions of the Railway Act, the general orders and regulations of the Board and the operating rules of the Applicants.

JOHN D. KEARNEY,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, JULY, 1952

Railway Accidents	373	Killed 15	Injured 376
Level Crossing Accidents	24	Killed 14	Injured 21
Totals.....	397	29	397

		<i>Killed</i>	<i>Injured</i>
Passengers		—	65
Employees		3	298
Others		26	34
Totals.....		29	397

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

Accidents K. I.

NEWFOUNDLAND

- 1 — 1 Auto truck ran into side of train. Licence: Nfld. C-7-549.

PRINCE EDWARD ISLAND

- 1 — 1 Automobile ran into side of train. Licence not given.

NEW BRUNSWICK

- 1 — 1 Pedestrian walked onto crossing in front of approaching train and was struck.

QUEBEC

- 1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-2978.
1 — 1 Automobile ran into side of train. Licence: Que. 114-066.
1 — 2 Pedestrians walked onto crossing in front of approaching train and were struck.
1 1 — Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. 20-732.
1 — 1 Child on tricycle ran onto crossing in path of approaching train and was struck.

ONTARIO

- 1 1 — Cyclist ran onto crossing in path of approaching train and was struck.
1 — 1 Cyclist ran onto crossing in path of approaching train and was struck.
1 1 — Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1 1 — Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 46055.
1 — 1 Trolley Bus drove onto crossing in front of approaching train and was struck. Licence: Ont. C-99680.
1 2 — Automobile ran into side of train. Licence: Ont. 793-Y-1.
1 2 4 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 799-AX.
1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence not given.

SASKATCHEWAN

- 1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-9542.
1 2 — Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ill. F-478.
1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 103-196.

ALBERTA

- 1 — 2 Automobile ran into side of track motor car. Licence not given.
1 1 — Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. PS-10412.
1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. C-52615.
1 2 — Oil truck ran into side of train. Licence not given.

BRITISH COLUMBIA

1 1 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. 26190.

Of the 24 accidents at highway crossings, 18 occurred at unprotected crossings, and 6 at protected crossings. Nineteen accidents occurred after sunrise and five after sunset.

OTTAWA, September 12, 1952.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79666 Aug. 29—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Hardisty Subdivision, Saskatchewan.
- 79667 Aug. 29—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Medstead Subdivision, Saskatchewan.
- 79668 Aug. 29—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Meadow Lake Subdivision, Saskatchewan.
- 79669 Aug. 29—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Synyard Subdivision, Saskatchewan.
- 79670 Aug. 29—Relieving the C.P.R. from erecting cattle guards at certain crossings on its White Fox Subdivision, Saskatchewan.
- 79671 Aug. 29—Approving plan showing location of the Trans-Northern Pipe Line Co., pipe line in Townships of Charlottensburg and Cornwall, Ontario.
- 79672 Aug. 29—Approving plan showing location of Trans-Northern Pipe Line Co. pipe line in Township of Osnabruck, Ontario.
- 79673 Aug. 29—Approving plan showing location of Trans-Northern Pipe Line Co. pipe line from Township of Darlington to Township of East Whitby, Ontario.
- 79674 Aug. 29—Approving plan showing location of Trans-Northern Pipe Line Co. pipe line from Township of North York to Township of Toronto, Ontario.
- 79675 Aug. 29—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line Parish of St. Polycarpe, Que., to Township of Charlottensburg, Ontario.
- 79676 Sept. 3—Authorizing the C.P.R. to reconstruct the overhead bridge over its tracks in line with Notre Dame St., Montreal, Que.
- 79677 Sept. 3—Approving proposed location of pipe lines, etc., near C.N.R. tracks at Dolbeau, Que.
- 79678 Sept. 3—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No. 7, Village of Locust Hill, Ont.
- 79679 Sept. 3—Authorizing the Quebec Department of Roads to construct Highway No. 55 across the C.N.R. at mileage 68·65 Jonquiere Subdivision.
- 79680 Sept. 3—Approving plans in regard to reconstruction of subway at mileage 23·05 Yarmouth Subdivision, Province of Nova Scotia. (D.A. Rly. Co.).
- 79681 Sept. 3—Requiring the C.P.R. to install protection at crossing of Highway No. 8 west of Lachute, Que.
- 79682 Sept. 4—Approving by-law of the C.N.R. relating to the preparation and issue of tariffs of tolls.
- 79683 Sept. 4—Approving by-law of The Oshawa Rly Co. *re* preparation and issue of tariffs of tolls.
- 79684 Sept. 4—Approving by-law of The Thousand Island Rly. Co. *re* preparation and issue of tariffs of tolls.
- 79685 Sept. 4—Approving by-law of N.S. & T. Rly. Co. *re* preparation and issue of tariffs of tolls.
- 79686 Sept. 4—Approving clearances of proposed overhead drum conveyor on C.N.R. spur serving Canada Packers Ltd., Vancouver, B.C.
- 79687 Sept. 4—Approving proposed location of storage tank of Canadian Oil Companies Ltd., near C.N.R. tracks at Collingwood, Ont.
- 79688 Sept. 4—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.N.R. tracks at Albert, N.B.
- 79689 Sept. 4—Approving proposed location of pipe lines, etc., of C.N.R. near their tracks at Fort Frances, Ont.
- 79690 Sept. 4—Approving proposed location of storage tanks, etc., of Imperial Oil Co. Ltd. near C.N.R. tracks at Debden, Sask.
- 79691 Sept. 4—Approving by-law of Montreal & Southern Counties Rly. Co. *re* preparation and issue of tariffs of tolls.
- 79692 Sept. 4—Relieving the C.P.R. from erecting cattle guards at highway crossing at mileage 63·9 Shuswap Subdivision, British Columbia.
- 79693 Sept. 4—Approving proposed location of pipe lines, etc., of Imperial Oil Ltd., near C.P.R. tracks at Balcarres, Sask.
- 79694 Sept. 4—Approving proposed location of pipe lines, etc., of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Joliette, Que.
- 79695 Sept. 4—Relieving the C.P.R. from erecting cattle guards at highway crossings at mileages 22·5 and 35·9 Osoyoos Subdivision, British Columbia.
- 79696 Sept. 4—Authorizing Trans-Mountain Oil Pipe Line Co. to carry its pipe line across all railways, highways and utility lines in Municipalities of Burnaby, Coquitlam and Surrey, B.C., and Cariboo District, B.C., as shown on plans.
- 79697 Sept. 4—Authorizing Trans-Mountain Oil Pipe Line Co. to carry its pipe line across all railways, highways and utility lines in Municipalities of Burnaby, Coquitlam and Surrey, B.C., and Cariboo District, B.C., as shown on plans.
- 79698 Sept. 4—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

- 79699 Sept. 4—Permitting the removal of slow order at C.N.R. crossing of highway at mileage 77·03 Margo Subdivision, Saskatchewan.
- 79700 Sept. 4—Amending Order No. 79350 dated July 9, 1952, *re* liquefied petroleum gas facilities at Grande-Riviere, Que.
- 79701 Sept. 4—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Baudette River, Province of Quebec.
- 79702 Sept. 5—Approving agreement between Point Roberts and Gulf Telephone Co. and the British Columbia Telephone Co.
- 79703 Sept. 6—Amending Order No. 78180 dated January 28, 1952, *re* crude oil loading facilities at Bashaw, Alta.
- 79704 Sept. 6—Permitting the removal of slow order at C.N.R. crossing second east of station at Baie St. Paul, Que.
- 79705 Sept. 6—Permitting the removal of slow order at C.N.R. crossing first north of station at St. Gedeon, Que.
- 79706 Sept. 6—Permitting the removal of slow order at C.P.R. crossing in town of Pointe-au-Chene, Que.
- 79707 Sept. 6—Authorizing the N.Y.C. Rly. Co. to remove the station shelter at Kanawaki, Que.
- 79708 Sept. 6—Approving operation of C.N.R. trains over a portion of private siding serving Pembroke Shook Mills, Ltd., Pembroke, Ont.
- 79709 Sept. 8—Approving operation of C.N.R. trains over private siding of Electric Reduction Co. of Canada Ltd., Parish of Varennes, Quebec.
- 79710 Sept. 8—Authorizing the C.P.R. to construct a siding extension across the road allowance near Hatton, Sask.
- 79711 Sept. 8—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Humber River, Ont.
- 79712 Sept. 8—Approving operation of C.N.R. trains over private siding of the Department of National Defence (Navy), Town of Nicolet, Que.
- 79713 Sept. 8—Authorizing the C.P.R. to construct a siding extension near Walsh, Alta.
- 79714 Sept. 8—Authorizing the C.P.R. to construct a siding extension across the surveyed road near Pashley, Alta.
- 79715 Sept. 8—Authorizing the C.N.R. to construct an additional railway track across Maple St., Collingwood, Ont.
- 79716 Sept. 9—Requiring the C.N.R. to install protection at crossing in Town of St. Tite, Quebec.
- 79717 Sept. 9—Relieving the C.P.R. from erecting cattle guards at certain crossings of its Prince Albert Subdivision, Province of Saskatchewan.
- 79718 Sept. 9—Requiring the C.N.R. to install protection at crossing of Highway No. 2 near Vauban Station, Que.
- 79719 Sept. 9—Requiring the C.N.R. to install protection at crossing of Highway No. 2 at Ste. Rose du Degele, Que.
- 79720 Sept. 9—Permitting the removal of slow order at Sidney St. crossing of C.N.R., Trenton, Ont.
- 79721 Sept. 9—Approving operation of trains over siding serving the Cold Lake Airport of the R.C.A.F., Province of Alberta.
- 79722 Sept. 9—Permitting the removal of slow order at C.P.R. crossing near station at Actonvale, Que.
- 79723 Sept. 9—Approving proposed location of storage tanks, etc., of The British American Oil Co. Ltd., near C.N.R. tracks at Chatham, N.B.
- 79724 Sept. 9—Authorizing the Alberta Department of Highways to widen the highway where it crosses the C.P.R. between NE ¼-27-9-22W4M and NW ¼-26-9-22-W4M, Province of Alberta.
- 79725 Sept. 9—Authorizing the Ontario Department of Highways to re-locate Highway No. 11 across the C.N.R. at mileage 57·39 Alderdale Subdivision, Province of Ontario.
- 79726 Sept. 10—Authorizing the Express Traffic Association to publish and file a tariff cancelling its C.T.C. No. E.T. 4040 to provide for collection of surcharge or payment of discount.
- 79727 Sept. 10—Authorizing Trans-Mountain Oil Pipe Line Co. to construct its company line across the Miette River, Jasper National Park, Alta.
- 79728 Sept. 10—Approving under Maritime Freight Rates Act tolls published in Supplement No. 13 to Tariff C.T.C. No. 1204 filed by the D.A. Rly. Co. under Section 9.
- 79729 Sept. 10—Authorizing the C.N.R. to operate trestles at certain mileages on its Ridgeville Subdivision, Manitoba.
- 79730 Sept. 10—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.N.R. tracks at Edmundston, N.B.
- 79731 Sept. 10—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.P.R. tracks at Leduc, Alta.
- 79732 Sept. 10—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.N.R. tracks at Stanley, N.B.

- 79733 Sept. 10—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at Coronach, Sask.
- 79734 Sept. 10—Approving proposed location of storage tank of Imperial Oil Ltd., near C.N.R. tracks at Lunenburg, N.S.
- 79735 Sept. 11—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at London, Ont.
- 79736 Sept. 11—Approving proposed location of storage tank of Imperial Oil Ltd., near C.N.R. tracks at Senneterre, Que.
- 79737 Sept. 11—Approving under Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominion Atlantic Rly. Co. under Section 9.
- 79738 Sept. 11—Approving under Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the D.A. Rly. Co. under Section 9.
- 79739 Sept. 11—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 79740 Sept. 11—Requiring the C.N.R. to install protection at Neebing Ave., Ontario, mileage 6·50 Kashabowie Subdivision.
- 79741 Sept. 11—Authorizing The Toronto Harbour Commissioners to construct a siding to serve National Sea Products Ltd., Toronto, Ont.
- 79742 Sept. 12—Permitting the removal of slow order at C.P.R. crossing east of station at Erickson, B.C.
- 79743 Sept. 12—Permitting the removal of slow order at Chesapeake & Ohio Rly. Co. crossing of Graham St., West Lorne, Ont.
- 79744 Sept. 12—Authorizing The Toronto Harbour Commissioners to construct its highway across the C.N.R. at mileage 129·10 Oak Point Subdivision, Province of Manitoba.
- 79745 Sept. 12—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Waldron, Sask.
- 79746 Sept. 12—Authorizing the Manitoba Department of Public Works to construct the highway across the C.N.R. at mileage 37·13 Ridgeville Subdivision, Province of Manitoba.
- 79747 Sept. 12—Approving proposed location of storage tank of B.A. Oil Co. Ltd., near C.P.R. tracks at North Bay, Ont.
- 79748 Sept. 12—Restricting the speed of trains at C.P.R. crossing of Centre St., Chatham, Ontario.
- 79749 Sept. 12—Permitting the removal of slow order at C.P.R. crossing east of station at Clover Bar, Alta.
- 79750 Sept. 12—Restricting the speed of C.P.R. trains over Riverside Ave., Sudbury, Ont.

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, October 15, 1952

No. 14

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

Complaint by Robin Hood Flour Mills Limited, Lake of the Woods Milling Company, Purity Flour Mills Limited, and Ogilvie Flour Mills Company Limited, Re Stop-off and Out-of-line Haul Charges on Grain and Grain Products in Western Canada.

File 8641-28

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
FRANK M. MACPHERSON, *Commissioner.*

Appearances:

M. A. MACPHERSON, Q.C., and M. A. MACPHERSON, Jr., for the Applicants.
K. D. M. SPENCE, for the Canadian Pacific Railway Company.
A. K. DYSART and A. H. HART, for the Canadian National Railways.

HEARD at Regina, Saskatchewan, May 20, 1952.

JUDGMENT

KEARNEY, J., Chief Commissioner:

In this matter the applicants have made the following four main submissions:

1. That the railways have erred in applying to stop-off and out-of-line haul charges on grain and grain products in Western Canada, the percentage increases authorized by the Board in the general revenue cases, in that stop-off and out-of-line haul charges are part of the through rate on grain and grain products:
2. That Section 59(4) of the Canada Grain Act establishes a ceiling on stop-off charges with the result that increases made in other stop-off charges are unjustly discriminatory:
3. That the increases applied to out-of-line haul charges are unreasonable, and result in unjust discrimination by comparison with direct haul movements:
4. That the Board's ruling of December 21, 1948 (63 C.R.T.C. 56) should be reconsidered.

1. *Interpretation of general increase Orders:*

This part of the application involves only an interpretation of our Orders in the general revenue cases.* The position taken by Counsel for the applicants may be briefly summarized as contending that the Board excluded all rates and charges on grain and grain products between points in Western Canada from any increase and thereby also excluded transit charges; that stop-off and out-of-line haul charges were not specifically named as charges to which increases may be applied; and that such charges are part of the through rate on such commodities and so should be considered as being also excluded from increase.

In support of his contention Counsel referred to the statutory rates required by Section 325(5) of the Railway Act and said that only grain and flour rates have been made the subject of national policy and that the Board, having regard to national policy, extended the statutory basis of rates to the Pacific Coast for export. Reference was also made to the Board's Judgment in the 1925 General Investigation (17 JOR&R 176) as indicating further than the Board did take such national policies into consideration. At this point I might say that the portion of the said Judgment to which we are referred, dealt solely with the question of applying main line rates from branch lines, and nothing therein relates to transit services. It is quite evident that the Board was not then dealing with transit but only with a matter of rate relationships for line haul movements within the scope of specific legislation enacted by Parliament.

It was also stated that as out-of-line hauls for application to specific rates on grain and grain products were derived from the local scale of mileage rates, which scale was not subjected to increase, the out-of-line haul charge should not be increased; that the movement of the traffic under an out-of-line haul charge was of the same type as a movement under the mileage scale.

The position taken by the railways was that the only question involved is an interpretation of the Board's Orders; that the Board had made rulings thereon immediately following the 21 per cent Judgment; and that there was a clear distinction between line-haul rates and the charges made for stop-off and out-of-line haul. The railways also commented upon the fact that other accessorial services are provided such as diversion, reconsignment, and switching which, if the argument of the applicants is sound, it would be equally logical to say should be subject to the same exception as made applicable to line haul rates.

The railways also asserted that Section 325(5) of the Railway Act applies only to line-haul rates, otherwise it would not have been necessary to enact Section 59 of the Canada Grain Act; and that any difference in treatment of eastern and western territories would leave the Board unable to defend its position under the Railway Act.

A careful review of the Board's records leads me to the conclusion that it was fully intended to apply the authorized increases to stop-off and out-of-line haul charges among other miscellaneous railway services. While the first Order No. 70425 did not specifically name such services, it is clear that they were included in the term "other accessorial and terminal charges". This conclusion is supported by the fact that subsequent Orders named the two services, among others, which were not previously specifically described.

At page 63 of the 21 per cent decision (Vol. 38 JOR&R No. 1A) it is apparent that because no increase was applied for in respect of grain rates to the head of the lakes, or to the Pacific Coast for export, the Board exercised its discretionary powers and decided such rates on grain as were included in the railways' application should not be increased within Western Canada, saying "To increase these rates with no increase in the others would create a spread

* Counsel for the railways furnished for the convenience of the Board and the applicants copies of the following Orders and the relevant applications made by the railways: Orders: 70425, 70462, 72583, 73123, 74034, 74512, 76886, 78164. Applications: October 9, 1946; July 27, 1948; December 21, 1950; April 23, 1951; October 29, 1951.

in the rates, which, it is considered, would be unreasonable." It may be noted that an application has been made by the railways seeking a reconsideration and reversal of the foregoing decision which is now pending before the Board.

Dealing with the decision as it stands, however, it appears clear to me that the Board intended the exceptions in paragraph numbered 8 of Order No. 70425 not to apply to transit services. At page 1030, Vol. 740 of the transcript of evidence in the 21 per cent case, a railway witness stated that accessorial and terminal charges set out in the railway application referred to:

"Charges for services published in the railways' special arrangements tariffs and other special charges of the railway applying to the charges for diversion, dockage, livestock car cleaning, disinfecting, partitions and slatting, out-of-line haul charges, reassembling arrangements, re-consignment arrangements, rental for special equipment, stop-off charges of all kinds, storage and terminal charges at Canadian ports, wharfage, and yardage of livestock."

and I have not found anything in the transcript which challenges this definition.

Immediately following the handing down of the Judgment and the issuance of the railway tariffs implementing the same, telegraphic enquiries reached the Board from the Saskatoon Board of Trade, and Robin Hood Flour Mills Limited, seeking to establish that the exceptions applied to stop-off and out-of-line haul charges. To both enquiries the Board replied:

"Exceptions in subparagraphs 1, 2 and 3 of paragraph numbered 8 Board's Order 70425 cover line haul rates only. Stop-off and out-of-line haul charges covered by last item paragraph numbered 4 of Order."

Counsel for the applicants herein expressed some concern that the Board's ruling having been given on the same day as the enquiry was made might not have been given "very much consideration". To satisfy myself on this point I have examined the records on file and find that the ruling was a properly constituted direction of the Board. I think it is a reasonable conclusion that the Board having only so recently considered and dealt with the whole matter in greatest detail, could very quickly interpret its intentions and so indicate them, as it did, with the greatest promptitude.

Subsequently the same ruling was conveyed to United Grain Growers Limited and the Canadian National Millers Association.

Orders subsequent to No. 70425 made the interpretation of the first Order clear in that they more specifically named the miscellaneous services to avoid such misunderstandings.

Reference has been made to the Board's ruling of December 21, 1948 (63 C.R.T.C. 56) wherein an observation was made that "There is no doubt that the factors of the through rate as of date of original shipment, plus the stop-off and out-of-line haul charges as of date of re-shipment from stop-off point are integrally related." This observation appears to have been taken to mean that we consider the through rate includes the additional factors for stop-off and out-of-line haul. The observation is *obiter dicta*, and in any event I do not consider that the Board in making that observation ruled that the through rate includes the additional factors for stop-off and out-of-line haul.

The observation was only one of "relationship", and the very fact that the transit charges were subjected to dates of effectiveness different to the through rate indicates, in my view, that they were separately established charges in respect of the transit privileges granted by the railways and were not part of the through rate.

I will now deal with certain cases in Canada and the United States cited by counsel for the applicants in support of his contention that transit service charges are part of the through rate.

At page 2317 of the Transcript referring to "Dominion Millers Association v. Canadian Freight Association, 22 C.R.C. 125," Counsel stated:

"the Judgment is written by Mr. Commissioner McLean, who had so much to do with the whole structure, and when you turn to page 128 he there determines what is a through rate,—Regina to Fort William so much, Fort William to Bay Ports so much, Bay Ports to Montreal so much, stop-over at Peterboro 2 cents, total through rate 33.33. I mean Mr. Commissioner McLean clearly there indicates that so far as he is concerned a stop-off charge is part of a through rate."

On reviewing the said Judgment I am of the opinion it does not support the view expressed by Counsel for the applicants. The computation shown on page 128 as reaching a "total through rate" is clearly indicated to be taken from a statement submitted by the railway, and therefore is not the language of Mr. Commissioner McLean. However, no matter in what language it was expressed, the use thereof was simply in respect of a complaint of unjust discrimination in charges specifically made for stop-overs. At page 129 thereof the Commissioner says: "A revised computation, taking into consideration the charges which may be considered as incidental to the through transportation movement, in typical cases, may be given." In the revised computation at page 130, in addition to line haul charges there are listed the incidental charges incurred for stop-over, lake insurance, handling, storage, elevation, and reconsignment. Some of these factors do not appear in railway tariffs, and the Judgment does not indicate they are part of the through rate. In my opinion the stop-over charge was not included in either computation as a factor of the through rate but was an incidental item in the cost of moving wheat from Regina. Furthermore the decision there reached was subsequently superseded by General Order No. 354, which will be referred to later herein, and which clearly demonstrates that stop-off charges and out-of-line haul charges were considered to be something apart from line haul rates.

At page 2318 of the Transcript, in re "James Goldie Co. Ltd., 20 JOR&R 93", Counsel for the applicants, in referring to Assistant Chief Commissioner McLean's judgment, said:

"he takes the local rate, adds in the stop-off charge, total rate charged. On page 8 he gives case after case, computation after computation, and in each instance he adds the stop-off charge as part of the through rate."

Upon reading the case I cannot find where the computations referred to add the stop-off charge as part of the through rate. All of the computations are brought to what is described therein as "total rate charged". As the issue there was the number of stop-offs permitted, the case dealt only with a question of unjust discrimination. Throughout the text there is a clear indication that stop-off charges are in addition to the through rate.

At page 2318, referring to I.C.C. Docket No. 17000, Counsel stated:

"In I.C.C. Docket 17000, there the Commission said in connection with Hoch-Smith resolution:

"Transit is included in the line haul rates in all parts of the Western District except in some parts of the Northwest. The rates prescribed therein (herein) will include transit in the line haul rate in all parts of the Western District'."

This citation is apparently a headnote to the decision of the Interstate Commerce Commission, 164 I.C.C. 619, at p. 620. It appears, however, that this decision was set aside by the United States Supreme Court, and a further decision was rendered in 205 I.C.C. 301.

From what is stated therein, it appears that certain of the railroads in western territory included transit in the line haul rates, whereas other railroads in northwest territory exacted a separate charge. At page 347 of the decision; *supra*, it is stated.

"In the original report it was found that the charging separately for transit on these northern lines, and the granting of transit without separate charge on other lines in the western district, subjected shippers subject to the separate charge to undue prejudice and disadvantage, and gave to shippers against whom no separate charge was made an undue preference and advantage, from which the northern lines were required to cease and desist, by making no separate charge for transit."

I would deduce from this that the Commission was merely removing a discriminatory practice arising from the actions of the railroads. The conditions mentioned do not prevail here. In "Transit on Cottonseed" 232 I.C.C. 183, at p. 189, the Commission said: "It has been our general policy not to require transit except where necessary to remove unjust discrimination or undue prejudice."

It may be noted we have held, in a number of cases in the past, that the granting of transit privileges is within the discretion of the railways; see "Province of Alberta v. C.P.R., 27 C.R.C. 317" wherein we stated:

"In several cases this Board has held that it has no jurisdiction to order such a service. That it is wholly a privilege—not a right—accorded by the railway company to the shipper, and heretofore has been restricted to the milling in transit of grain, and that the jurisdiction of this Board is restricted solely to questions of discrimination in the granting of such privilege to one shipper and denying it to another, under conditions that call for the intervention of the Board to prevent unjust discrimination, or difference of treatment."

At page 2319 of the Transcript, we were referred to "Central Railroad Company of New Jersey v. United States, 257 U.S. 247", and Counsel for the applicants stated:

"But I think perhaps the most important case that I can give you is the decision of the Supreme Court of the United States and that is in Central Railway Company vs. U.S., 257 U.S. at 247, and this is what the Supreme Court said in this case:

"That transit arrangements rest upon the fiction that the incoming and outgoing transportation services which are in effect distinct, constitute a continuous shipment from point of origin to final destination."

"That is to say, my friends may talk of stop-offs as something distinct, they may talk of out-of-line haul as something distinct, but in the transportation world, in the assessing of rates, then fiction has developed both there and here as a result of which these, which in effect might be considered distinct, constitute 'a continuous shipment from point of origin to final destination'."

Looking at the above citation in the most favourable light from the applicants' point of view, it goes no further than to say that it is only by the application of a fiction that a non-continuous shipment may be looked upon as a continuous one. The fiction however has, in my opinion, no foundation in law but is one which arises through a discretionary act of the carrier who is equally free to disregard the fiction and look upon a non-continuous shipment for what it really is and charge for it accordingly.

Moreover a review of this case indicates that the point at issue was the exercise of the powers of the Interstate Commerce Commission upon a question of unjust discrimination. The following observation made by the Court preceding the above citation at pages 254-5, seems to indicate that transit arrangements depend not upon rights enjoyed by shippers but upon privileges extended by the carrier to the shipper and availed of by the latter:

"Where the privilege is granted and availed of, delivery is made of the commodity to the creosoting plant, as if that were the final destination. It is there unloaded and treated; and at some time thereafter it is redelivered to the carrier, as if there were an initial shipment of the creosoted product. Then it is forwarded to the final destination. Although some charge is made for the transit service, the shipper secures thereby a lower freight rate."

At page 2319 reference is made to "Milling in transit rates, 17 I.C.C. 113" and Counsel for the applicants stated:

"then there is this other point of the Interstate Commerce Commission which said that re milling in transit rates, 17 I.C.C. 113:

'Why should there be a milling in transit point if there is not through transportation and if there is through transportation the through rate from point of origin must apply'."

The decision in this case shows that it was in pursuance of a previous case "Through routes and through rates, 12 I.C.C. 163" and dealt with a request of certain grain and flour interests that the rate in effect at time of the second or final movement be applied to shipments subject to transit regulation. Nowhere in either case can it be found that the Commission was holding that the transit charge formed a part of the "through" rate.

With respect to the applicants' contention that transit charges in the United States are regarded generally as part of the through rate I might add that my attention has been directed to a paragraph appearing on page 482 of the Freight Traffic Red Book, 1948 edition, a United States publication enjoying wide usage I am told and specializing in traffic matter, which says:

"The charges for transit privileges vary, depending on where the service is rendered and the expense in performing the service. Sometimes the through rate from point of origin to ultimate destination is protected, plus a stop-off charge, whereas in other instances charges are assessed on basis of a special rate to the transit point plus another special rate outbound, the combination of which practically equals the through rate from point of shipment to ultimate destination."

This general description of the application of transit charges for what it is worth rather than showing that transit charges are "as much a part of the through rate as the through rate itself" indicates that they are privileges which are computed and extended in varying ways according to the circumstances.

After careful consideration of all that has been adduced herein, I am unable to find that the railways erred in applying the general increases, authorized by the Board by Order 70425 and subsequent Orders, to stop-off and out-of-line haul charges on grain and grain products, nor do I find that such charges are governed by the provisions of Section 325(5) of the Railway Act, and I find that such charges are not a component part of the through rate applied to the movement of such commodities via stop-off points.

2. Stop-off Charges:

The position taken by the applicants respecting stop-off charges, apart from that already dealt with herein, is that Section 59(4) of the Canada Grain Act sets a ceiling for stop-off charges and is indicative of the national policy in

respect of the rates to be charged on grain. In the application it was alleged "that unjust discrimination exists when stop-off on grain and grain products has been increased from one (1¢) to one and one-half (1½¢) cents per cwt."

The railways contended the issuance of Order No. 72583 showed that the Board had modified its Order 70425 with respect to the stop-off charge under the Canada Grain Act only for statutory reasons; that there can be no valid allegation of unjust discrimination from this cause, as "the discrimination would be removed by an increase in the Canada Grain Act charge if the railways were permitted by the Act to do so."

Section 59 of the Canada Grain Act reads as follows:

"59. When any carload of grain is shipped to such a destination that, in order to reach it, the car must pass through Winnipeg, Edmonton, Calgary, Port Arthur, Fort William, Moose Jaw or Saskatoon, the bill of lading issued in respect of the same shall, at the request of the shipper and on payment by him of the sum of three dollars, be marked on its face with a direction that the car is to be held at any one of the above named places for the orders of some person resident in such place, whose name and address is stated in the direction.

(2) Forthwith upon the arrival of such car at the place at which it is directed to be so held, the railway company by which it is carried thereto shall give notice of its arrival to the person named in the direction, and if within twenty-four hours such person delivers to the railway company an order in writing for the delivery of the grain contained in such car at any proper point of delivery on the tracks of such railway company or any connecting railway company at such place, the grain shall be delivered accordingly upon the surrender of the bill of lading and the payment of an amount equal to the prescribed rate for the carriage of such grain from the point of shipment to the place where the same is delivered.

(3) If no such written order as aforesaid is received within the time limited therefor, the railway company may forward the car to its destination in accordance with the bill of lading.

(4) If such a written order is received and the grain is delivered pursuant thereto, the railway company shall, if so required within six months of such delivery by the person on whose direction it was made, carry such grain from such point of delivery to any other point in Canada at a rate equal to the through rate from the original point of shipment to such point in Canada plus an amount equal to one cent for each cental of such grain, less three dollars.

(5) This section shall not apply so as to authorize the holding at Winnipeg, Fort William, or Port Arthur of cars shipped between the first day of September and the fifteenth day of December in any year.

(6) In this section the word "Winnipeg" includes the railway terminals at Winnipeg and St. Boniface."

It will be noted that the statutory provision applies only to grain held at specified points in the direct line of transit. It applies only when the grain is held for orders which must be furnished to the railway within 24 hours, otherwise the car may be forwarded to the original destination. The shipper must indicate on the bill of lading if holding in transit is desired and pay an amount of three dollars therefor. If the car is delivered at the stop-off point, the grain may be re-shipped within a specified time to any other point in Canada at the through rate from point of origin plus an amount of one cent for each cental (100 lbs.) of grain, less three dollars.

Obviously, therefore, no milling in transit is involved, nor is stopping in transit contemplated for such other purposes as bagging, cleaning, clipping, crushing, drying, malting, or reconditioning, all of which purposes are permitted under the railways' tariff provisions.

It will be noted also, that despite the interpretations of Counsel for the applicants respecting national policy on grain rates, the stated provisions of the Grain Act do not integrate the stop-off charge with the through rate. Where the grain is stopped in transit under the statutory provision and is subsequently re-shipped, the through rate from point of origin is required to be assessed PLUS the stop-off charge.

Following the issuance of Order No. 70425, when the Board's attention was directed to the provisions of the Grain Act, the Board gave consideration thereto and reached the decision that its Order could not override the statute, consequently it issued Order No. 72583 on the 16th June, 1949 amending Order No. 70425 by excepting from the authorized increases the charge specified in the Grain Act. This procedure was followed in each subsequent general increase Order.

United Grain Growers Limited subsequently alleged unjust discrimination by reason of the exception and the increase made in other stop-off charges. Under date of September 15, 1949 the Board's Secretary advised the complainant as follows:

"I have been directed to advise that the Board's view is that when specific rates are fixed by an Act of Parliament, as in the case of the Grain Act, they must be regarded as exceptions intentionally made by Parliament from the application of its general policy against discrimination, and discrimination so authorized by Parliament itself cannot be regarded as unjust or prohibited.

"This view is in accord with decisions of the Board in previous cases such as *Re: Crow's Nest Pass Rates*, 30 Canadian Railway Cases, page 32, and *Halifax Fisheries Limited v. C.N.R.* 56 Canadian Railway and Transport Cases, page 134."

It is quite clear that the Board fully intended the increases authorized should apply to stop-off charges without exception, and only made an exception upon being directed to the statutory provisions, *supra*.

In General Order No. 354 of January 4, 1922 the Board fixed a uniform charge for stop-off throughout Canada as is indicated by the following extract from the Judgment therein as reported at pages 140 and 141, Vol. 27 Canadian Railway Cases:

"I find that all grain produced in Canada should be allowed the same stop-over privileges for milling purposes, no matter in what part of Canada the milling operation takes place.

"As I view the question, the stop-over privilege for milling, elevator, cleansing, or hospital purposes is a service incidental to transportation, customary and usual in connection with the business of the railway companies in Canada, and has nothing whatever to do with the ordinary transportation charges and it should make no difference whether the main line haul were 100, or 1,000, or 3,000 miles. This service should be paid for entirely independent of the line haul, and, therefore, the charge for this service, unless conditions are very dissimilar, should be the same on every railway in Canada."

Before the issuance of General Order No. 354 there were differences in the amount of stop-off charges as assessed by the railways, which differences were within the competence of the railways or the Board to remove. It has been shown herein that the incidence of the statutory Grain Act stop-off charge is very limited, as it has been stated in argument that only one car had moved thereunder in a period of four years. With increased rates allowed by reason of greatly increased expenses, there would be no grounds on which to find that the present stop-off charge is unreasonable or unjustly discriminatory.

General Order No. 354 is in harmony with the national freight rates policy as recently enacted and I think the principle of the said Order should be maintained.

3. *Out-of-line haul charges:*

Apart from the contention of the applicants that the railways erred in applying increases to out-of-line haul charges, which has been dealt with previously herein, the main questions for consideration are the allegations (1) that unjust discrimination results from the difference in total rate on shipments via stop-off points involving indirect mileage, compared with the total rate on direct shipments of equal mileage; and (2) that the increased out-of-line haul charges are unreasonable.

The applicants introduced Exhibit No. 1 showing examples of through rates plus out-of-line haul charges, compared with the rate from a point of origin having direct mileage equal to the total indirect mileage. For instance: from Dilke, Sask., to Fort William the direct mileage is 821, and the rate to Fort William is 21¢ per 100 pounds. If stopped at Moose Jaw an out-of-line haul of 85 miles occurs and is charged for at 2¼¢ per 100 lbs. Via Moose Jaw the total mileage to Fort William is 906 miles which is the equivalent distance from Waitville, Sask., to Fort William direct and for which direct movement the rate on grain is 22¢ per 100 lbs. Hence the Dilke movement via Moose Jaw pays 1¼¢ per 100 lbs., more than the direct movement from Waitville.

In connection with the contention that differences such as this constitute unjust discrimination it must be noted the Exhibit shows that of the 18 examples therein only in two cases were the direct and indirect total rates equal before the increases were applied to out-of-line haul charges. For example: from Dilke the indirect total rate via Moose Jaw, before the general increases, was 22½¢ whereas from Waitville it was 22¢. Therefore it would appear that cases where the indirect and direct hauls work out to equality are fortuitous circumstances.

The railways asserted that there is a clear distinction between line haul and out-of-line haul charges; that any out-of-line haul is over and above direct haul; and that an increase in out-of-line haul charges may put the direct haul shipper in a more favourable position but that fact would not constitute unjust discrimination.

An examination of railway tariffs in effect in Eastern territory indicates that conditions similar to those set out in Exhibit No. 1 prevail, in that the total charge for the indirect haul may exceed that for a direct haul of comparable length.

Other than to show the differences in total rate by the examples in Exhibit No. 1, the applicants did not offer any evidence as to unjust discrimination, in fact during the hearing the sole attack was upon the reasonableness of the charge *per se*, and they stated they were willing to pay a reasonable charge.

In assessing the reasonableness of out-of-line haul charges sight must not be lost of the fact that such charges are incidental to the granting of stop-off privileges in the discretion of the railways in so far as the said privileges maintain the application of the through rate on the traffic so stopped in transit. Our intervention in such matters I consider has been, and should continue to be, remedial.

In both eastern and western territories two methods of applying out-of-line haul charges on grain and grain products prevail, i.e., where traffic moves under mileage rates the out-of-line haul charge is obtained by applying the through mileage from origin to destination via the stop-off points; whereas in cases where specific rates apply a specific out-of-line haul charge is made.

In so far as the traffic moving under mileage rates is concerned the practice of applying continuous mileage is uniform in both territories, but in the west, under the exceptions to our general increase Orders, no increase has been authorized to the western scale, whereas the eastern scales have been increased to the full extent permitted by such orders.

In eastern territory specific out-of-line haul charges are based upon one-half cent per ton mile increased by 21, 20 and 17 per cent. Such charges are published in cents per 100 pounds and scaled in 20 mile blocks above the initial block of 29 miles.

In western territory the specific out-of-line haul charges are derived from the local mileage grain scale by taking the differences in rates resulting from the direct and indirect mileage, with a minimum charge of 1¢ per 100 lbs., to which charges the 21, 20 and 17 per cent increases are applied.

In both territories under mileage rates, the practice of applying continuous mileage through stop-off points is of long standing, and permits the application of the mileage scale to all forms of out-of-direct-line hauls. It is particularly valuable in respect of back-hauls; for example a car of grain from Chatham, Ont., may move to Peterborough, Ont., for milling there and the product may be sent back to Toronto; or similarly from MacLeod, Alta., to Calgary and thence to Aldeyde, Alta.

The principle upon which rates are applicable for milling in transit, is to apply the through rate from the point of origin to the point of final destination. Obviously, under a mileage scale, where the final destination is situated closer to the point of origin than the milling point, the application of the through rate principle cannot be secured as the rate to the milling point would generally exceed the contemporaneous rate to final destination. Hence it would appear that the use of continuous mileage should not be changed on this record.

The foregoing principle is not affected by the fact that the western grain mileage scale has not been increased whereas that in the east has incurred the full increase. There is an equality of method which conforms to the spirit of the national freight rates policy on equalization; the question of equalizing the two scales is a matter which should await the outcome of the general investigation now in progress, or a specific case if such arises.

With respect to the matter of applying specific out-of-line haul charges as contemplated by the applicants in this case, it is asserted that as the said charges in western Canada are derived from the local mileage scale which has not been increased, the movements in out-of-line haul are of the same type. By this I would understand the applicants seek to show that if the grain were moving to the stop-off point under the mileage scale it would be physically moved in the same manner as under an out-of-line haul charge. There can be little doubt but that this is so, but if one examines Exhibit No. 1, and taking only one example therefrom, namely Dilke, Sask., to Fort William, Ont., via Moose Jaw, where the out-of-line haul involved is 85 miles, the charge for the said out-of-line

haul is 2½¢ per 100 pounds, whereas if the local mileage tariff rate were applied for that amount of out-of-line haul the charge would be 14½¢ per 100 pounds. In this case the actual distance from Dilke to Moose Jaw is 89 miles or practically the same as the out-of-line haul distance.

Therefore the out-of-line haul charge as increased is still substantially below what such charge would be for the same distance under the local scale without increase. I would consider that this indicates that while there may be no difference in the physical haulage of the car there is a substantial difference in the type of rate, and such difference does not lend support to the allegations of the applicants.

A further contention of the applicants is that western mills are penalized by out-of-line haul charges whereas eastern mill do not incur such charges in the movement of the grain, milled in the east, from the point of origin in western Canada to the lakehead. I cannot accept this as a valid argument in the applicants' favour; obviously if eastern mills obtain grain from a western point, and perform the milling at an eastern point, there should be not out-of-line haul involved in bringing the grain to the lakehead. However it has been shown in evidence that eastern mills incur out-of-line haul charges if the milling point in the east is not on the direct line of transit to the final destination.

I think it has been amply shown that the out-of-line haul charges, as applied to specific rates, are not unreasonable having in mind that they are part of the general privilege of stopping in transit granted by the railways. While the Board's Judgment in *re* General Order No. 354, *supra*, contemplated that the privilege of stopping in transit required a uniform charge therefor, and the Order fixed a uniform charge for the stop-off, it coupled therewith the requirement that a reasonable charge for such out-of-line hauls be made, neither of which were considered to be component parts of the line haul rates. It would be reasonably inferred that if the case had involved out-of-line haul charges, any differences in such charges would have been made subject to a similar finding as to uniformity.

Except in cases where continuous mileage is applied when traffic moves under mileage rates, I think it would be in harmony with the national freight rates policy on equalization for the railways to apply a uniform scale of out-of-line haul charges for application to specific rates in both the east and the west. For this purpose I feel that the present eastern scale should be adopted for both territories with some modification.

Consequently there is attached to this Judgment a suggested uniform scale, in Appendix "A". This is not to be considered a "prescribed" scale, but it is commended to the railways as a suitable equalization basis which they may adopt with the knowledge that it would meet our present ideas as to reasonableness. The said scale does not include the increase authorized by our Order No. 78164 for the sole reason that such Order is of a temporary nature but the railways would be free to apply it under the general provisions thereof.

An examination of the railway tariffs shows that as many specific out-of-line haul charges are in effect, calculated upon specific movements, competitive mileages and other conditions it is probable that some time must elapse before these specific charges can be fully and properly revised. There are also some differences in the application of present out-of-line haul charges to specific commodities in the tariffs generally described as applicable to "Grain & Grain Products". We consider that as the privilege of stopping in transit is a discretionary one, the railways must be permitted to exercise the same discretion in respect of the out-of-line haul charges, with the right of interested shippers to bring to our attention any evidence of unjust discrimination which may prevail as a result thereof.

Taking the out-of-line haul distances and charges therefor as shown in applicants' Exhibit No. 1, and applying thereto the charges which would result from the application of the scale set out in Appendix "A" the results would be as follows:

Exhibit 1. Out-of-line mileage	Exhibit 1. Out-of-line charge	Appendix "A" Out-of-line charge	
		A	B
4	$1\frac{3}{4}$	1	$1\frac{1}{4}$
5	$1\frac{3}{4}$	1	$1\frac{1}{4}$
63	$3\frac{1}{2}$	2	$2\frac{1}{4}$
85	$2\frac{1}{4}$	3	$3\frac{1}{2}$
85	$3\frac{1}{2}$	3	$3\frac{1}{2}$
91	$2\frac{1}{4}$	$3\frac{1}{2}$	4
91	4	$3\frac{1}{2}$	4
95	$5\frac{1}{4}$	$3\frac{1}{2}$	4
111	$5\frac{1}{4}$	$4\frac{1}{2}$	$5\frac{1}{4}$
113	$5\frac{1}{4}$	$4\frac{1}{2}$	$5\frac{1}{4}$
128	$6\frac{1}{2}$	$4\frac{1}{2}$	$5\frac{1}{4}$
169	$6\frac{1}{2}$	$5\frac{1}{2}$	$6\frac{1}{2}$
193	8	7	8
210	$9\frac{1}{2}$	7	8
297	$10\frac{1}{2}$	11	13
317	13	12	14
335	13	$12\frac{1}{2}$	15

A. Exclusive of increase under Order No. 78164.

B. Including increase under Order No. 78164.

4. *Review of Ruling, dated December 21, 1948, (63 C.R.T.C. 56):*

Counsel for the applicants requested a review of the Board's ruling, dated December 21, 1948, (63 C.R.T.C. 56).

The subject matter of the application upon which that ruling was made was railway tariffs which specified charges for stop-off and out-of-line haul increased pursuant to the Board's Order No. 70425. The matter there involved was strictly one of tariff interpretation and, as Counsel for the applicants correctly pointed out in argument in the present case, the Board did not on that occasion have before it the issue whether the railways had a right to apply to charges for stop-off and out-of-line haul the increase authorized by Order No. 70425 and subsequent relevant orders.

If the railways had no such right it would be quite proper to review the ruling above referred to, involving as it did charges for stop-off and out-of-line haul increased pursuant to Order No. 70425, but our decision herein that the railways had such right makes it unnecessary to review the ruling.

FINDINGS:

On consideration of all that has been adduced, I find that:

1. the authorization for increased rates and charges in Orders 70425, 70462, 72583, 73123, 74034, 74512, 76886 and 78164 were properly applied by the railways to charges for stop-off and out-of-line hauls;
2. stop-off and out-of-line haul charges on traffic not subject to mileage line haul rates are separately established charges when applied in respect of transit privileges accorded by the railways;
3. stop-off and out-of-line haul charges are not governed by subsection 5, Section 325 of the Railway Act;

4. stop-off charges to the extent stated in Section 59(4) of the Canada Grain Act are a statutory obligation and as such do not create a condition of unjust discrimination or undue preference within the meaning of the relevant provisions of the Railway Act;
5. stop-off charges and charges for out-of-line haul, increased to the extent permitted by Orders 70425, et al., are not unreasonable or unjustly discriminatory;
6. the application to review and rescind Ruling dated December 21st, 1948, (63 C.R.T.C. 56) should be dismissed;
7. suggested uniform out-of-line haul charges in lieu of present specific charges are as set out in Appendix "A" hereto.

An Order will issue dismissing the application. No further Order is deemed necessary at this time.

JOHN D. KEARNEY.

OTTAWA, August 26, 1952.

I concur:

FRANK M. MacPHERSON.

APPENDIX "A"

SUGGESTED UNIFORM OUT-OF-DIRECT-LINE HAUL CHARGES
ON

BARLEY, BUCKWHEAT, CORN, OATS, RYE, SPELTZ, WHEAT,
FLAXSEED, AND PRODUCTS THEREOF AS DESCRIBED IN RAIL-
WAY TARIFFS.

CARLOADS

APPLICABLE ON TRAFFIC MOVING AT OTHER THAN MILEAGE
RATES, VIA STOP-OFF POINTS IN CANADA, INVOLVING HAUL
OUT OF DIRECT LINE FROM ORIGINAL POINT OF SHIPMENT
TO FINAL DESTINATION.

Out-of-line distance in miles. Not over	Out-of-line haul charge in cents per 100 pounds. (See note)
30	1
50	1½
70	2
90	3
110	3½
130	4½
150	5
170	5½
190	6½
210	7
230	8
250	9
270	9½
290	10
310	11
330	12
350	12½
370	13
390	14
410	14½
430	15½
450	16½
470	17
490	17½

NOTE: Exclusive of increases authorized by Order No. 78164 dated January 25,
1952, which may be applied.

ORDER No. 79660

In the matter of the complaint by Robin Hood Flour Mills Limited, Lake of the Woods Milling Company, Purity Flour Mills Limited and Ogilvie Flour Mills Company Limited re stop-off and out-of-line haul charges on grain and grain products in Western Canada:

File No. 8641-28

THURSDAY, the 28th day of August, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sitting of the Board held in Regina, Saskatchewan, on May 20, 1952, in the presence of Counsel for the Applicants and for the Canadian National Railways and the Canadian Pacific Railway Company—

It is ordered that the application be, and it is hereby, dismissed.

JOHN D. KEARNEY,
Chief Commissioner.

In the matter of the application of the Vancouver and Lulu Island Railway Company, Canadian Pacific Railway Company, and British Columbia Electric Railway Company Limited for an order granting them leave to abandon operation of all passenger service on the portion of the Vancouver and Lulu Island Company's line running from its junction with the street railway system of British Columbia Electric Railway Company Limited on Fourth Avenue in the City of Vancouver to Steveston in the Municipality of Richmond in the Province of British Columbia.

File No. 27563-439

Before:

F. M. MACPHERSON, *Commissioner.*

Appearances:

A. B. ROBERTSON, Q.C., for the British Columbia Electric Railway Company Limited.

J. A. WRIGHT, for the Canadian Pacific Railway Company and Vancouver and Lulu Island Railway Company.

D. DONAGHY, Q.C., for the Municipality of the Township of Richmond.

A. B. NASH, for the City of Vancouver.

A. J. BAKER, for the Brotherhood of Locomotive Engineers and Order of Railway Conductors.

HEARD at Vancouver, B.C., June 4th and 5th, 1952.

JUDGMENT

BY THE BOARD:

Description of the Line

The line upon which it is proposed to abandon all passenger service consists of two sections; the first extends from Davie Street Station to Marpole Station, which points are on the mainland and known as the Vancouver Line, a distance of 6.9 miles.

The second section extends from Marpole Station to Steveston, which latter town is located on the south shore of Lulu Island, a total distance of 7.9 miles.

Jurisdiction

The jurisdiction of the Board with respect to this application is confined to that portion of the line known as Zone 2 of the Vancouver and Lulu Island Railway Company which outbound, commences at Fourth Avenue Station, Vancouver. Therefore, the additional portion of the line from Davie Street Station to Fourth Avenue Station, a distance of 1.2 miles, not coming under the jurisdiction of the Board will not be dealt with.

Necessity for Application

From evidence submitted, it was shown that the City of Vancouver propose to erect a new bridge at Granville Street over False Creek; furthermore, that it had been decided not to permit operation of interurban trains or street cars over the new bridge and in order to permit the erection of the new structure it is necessary that the operation of all forms of rail transportation over the existing

Granville Street Bridge be discontinued, the Company being notified by the City of Vancouver to discontinue their operations over the present Bridge by July 18.

Proposed Alternative Service—Fourth Avenue Station to Marpole Station

The applicants propose to replace the existing interurban passenger trains on the Vancouver line between Fourth Avenue Station and Marpole Station with a trolley coach service, to be operated on improved routes and essentially parallel to the existing interurban line except in the vicinity of Quilchena Golf Course, in which locality the necessity for a footpath from Pine Street in a westerly direction to the new road appears to be warranted. This the Company have undertaken to construct.

From exhibits filed it is indicated that the trolley coach stops will be more closely spaced than the existing interurban stations. In addition, a materially accelerated operating schedule is to be inaugurated with the proposed new form of transportation. Transfer privileges are to be continued.

It has been demonstrated in numerous cities that trolley coaches provide improved service and convenience not available with many types of electric rail cars, this being particularly evident in operations comparable with those proposed by the applicants.

Proposed Alternative Service—Marpole Station to Steveston Station

The applicants proposed to replace the present interurban electric trains on the Richmond line between Marpole and Steveston by a motor bus service.

Objections

From the evidence filed it is apparent that apprehension exists regarding the operation of motor buses on the roads of Lulu Island, the view being held that these vehicles would not be capable of handling the volume of traffic, particularly during rush hour periods, and that it would consequently be necessary to materially increase the number of buses in comparison with the interurban trains now operating.

However it is considered that such an increase would seriously aggravate the existing highway traffic congestion, consequently, it is apparent that the proposal warrants the most serious consideration since the proposed bus service would be required to operate over the Marpole Bridge which, the evidence indicates, is already overtaxed during certain periods. It was further alleged that during foggy and inclement weather the motor buses would be unable to provide schedules comparable with those maintained by the interurban trains.

Decision

(1) Fourth Avenue Station to Marpole Station:

That the application to substitute adequate trolley bus service between Fourth Avenue Station and Marpole Station be granted to be operated on a more frequent schedule than the present interurban train service, provided also that transfer privileges be permitted and that the existing freight service on this line be maintained.

Consideration was given by the Board to continuing the present interurban service into Fourth Avenue or Broadway. However, it was felt that this would create considerable confusion at either point, particularly at rush hours, when it would mean each train would have to be met by several buses. It was thought that the all-over interest of the travelling public would be served by terminating the interurban at Marpole with transfers to buses at that point to downtown Vancouver direct.

(2) Marpole Station to Steveston:

Having regard for public convenience it is not considered that the proposal to replace the existing interurban trains on this line with motor buses to be in the best interest. The application is hereby dismissed. Authority will, however, be granted to permit termination of the said interurban train service between Steveston and Marpole Station at the latter designated point. Transfer privileges are to be granted and the existing freight service between Fourth Avenue and Steveston Station to be maintained.

The foregoing are the reasons for issuing Order No. 79357, Dated July 11, 1952.

JOHN D. KEARNEY,
A. SYLVESTRE,
FRANK M. MACPHERSON,
H. B. CHASE.

OTTAWA, September 11, 1952.

ORDER No. 79357

In the matter of the application of the Vancouver and Lulu Island Railway Company, Canadian Pacific Railway Company and British Columbia Electric Railway Company, Limited, hereinafter called the "Applicants", for an Order granting them leave to abandon operation of all passenger service on the portion of the Vancouver and Lulu Island Railway Company's line running from its junction with the street railway system of British Columbia Electric Railway Company, Limited, on Fourth Avenue in the City of Vancouver, British Columbia, to Steveston in the said Province, and of British Columbia Electric Railway Company, Limited for an Order granting it leave to abandon the operation of all interurban railway passenger services running over the urban street railway system of British Columbia Electric Railway Company, Limited between the said junction on Fourth Avenue and Davie Street in the said City of Vancouver.

File No. 27563-439

FRIDAY, the 11th day of July, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

This matter having been heard before Commissioner F. M. MacPherson at Vancouver, British Columbia, on June 4th and 5th, 1952, in the presence of Counsel and representatives of British Columbia Electric Railway Company, Limited, Canadian Pacific Railway Company and Vancouver and Lulu Island Railway Company, the Municipality of the Township of Richmond, the City of Vancouver and the Brotherhood of Locomotive Engineers and Order of Railway Conductors; and upon a report thereon having been made to the Board by Commissioner MacPherson—

It is ordered (reasons for Judgment to be given at a future date) that the discontinuance of the Applicant's passenger train service between Fourth Avenue station and Marpole station in the Province of British Columbia commencing on July 18, 1952, be, and it is hereby, approved.

JOHN D. KEARNEY,
Chief Commissioner.

Application of the British Columbia Telephone Company for approval of extended Area Service between the New Westminster and Vancouver Exchanges.

File 32560-33

JUDGMENT

BY THE BOARD:

The British Columbia Telephone Company (hereinafter called the Company) has submitted its proposal to furnish subscribers of its New Westminster exchange extended service with the Vancouver exchange which, when instituted, will provide toll free calling between both exchanges. Additionally similar toll free calling facilities will be provided between the New Westminster and Richmond exchanges.

The institution of the Company's plan for such extended service involves replacement of certain central office manual equipment by automatic equipment and a period of at least three years may elapse before the required facilities can be put into operation. Meanwhile the Company must be assured that it may proceed with the necessary work.

We have previously dealt with similar applications affecting other exchanges adjoining the Vancouver and Victoria exchanges and our Judgment dated May 15, 1952, (42 Board's Judgments, Orders, Rules and Regulations, p. 69) sets forth the procedure followed and the principles upon which our approval was given. These conditions also prevail in the present case.

As a result of a plebiscite conducted in the New Westminster exchange a total of 12,396 ballots were issued, of which 8,755 or 71 per cent were returned. Those subscribers who refrained from voting cannot be considered as opposed to the Company's proposal.

Of the ballots returned 569 were spoiled representing 6.5 per cent of the voting subscribers whose wishes cannot be determined, but 5,523 votes or 63.1 per cent of the total completed ballots signified approval of the plan, and 2,663 or 30.4 per cent signified disapproval.

As the extended service cannot be on an optional basis, the wishes of the majority must prevail and the evidence submitted indicates a substantial majority are in favour of the proposed plan.

Upon consideration of the application and subject to the general conditions stated in our Judgment of May 15, 1952, *supra*, we are of the opinion that the Company's application should be approved.

The plan is subject to the imposition of Vancouver exchange rates to the New Westminster subscribers, and upon institution of toll free calling between the two exchanges, Vancouver exchange rates may be applied by filing appropriate tariff amendments to be effective on not less than thirty days' notice. No order is required at this time.

A. SYLVESTRE,

FRANK M. MACPHERSON.

OTTAWA, September 13, 1952.

In the matter of the application of the City of Portage la Prairie, Manitoba, requesting additional protection at the crossing of the tracks of the Canadian Pacific Railway Company and Tupper Street in the said city; and in the matter of apportionment of the cost of such additional protection, if ordered by the Board.

Case No. 4803

AND

In the matter of the application of the City of Portage la Prairie, Manitoba, requesting additional protection at the crossing of the tracks of the Canadian Pacific Railway Company and Main Street in the said city and in the matter of apportionment of the cost of such additional protection, if ordered by the Board.

File No. 16545

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

FRANK M. MACPHERSON, *Commissioner.*

Appearances:

C. C. MILLER, Q.C., for the City of Portage la Prairie.

Mayor H. LLOYD HENDERSON, Portage la Prairie.

K. D. M. SPENCE, for the Canadian Pacific Railway Company.

A. H. HART, for the Canadian National Railways.

HEARD at Portage la Prairie, Manitoba, May 19, 1952.

JUDGMENT

MACPHERSON, Commissioner:

The City of Portage la Prairie submits that both the Tupper and Main Street crossings of the Canadian Pacific Railway are hazards to the travelling public and are not amply protected by the present protection, and ask that automatic signals with two short-arm gates and two bells be installed, and suggested that this protection be handled in the same manner as that provided by the Canadian National Railways at the same two crossings of their tracks. The city submits that as the Canadian National Railways' crossings of Tupper and Main Streets are each protected by automatic light signals, two short-arm gates, and two bells, a hazard is created as the Canadian Pacific Railway's crossings of these streets are protected only by watchmen between the hours of 7 a.m. and 11 p.m., with no protection of any kind the remainder of the time. They suggest this should be remedied by the installation of automatic signals, gates and bells at no cost to the city. The city feels that as the Canadian National Railways paid all costs of installation, maintenance and operation the Board should issue an Order directing the Canadian Pacific Railway Company to install the same type of protection with conditions the same as those contained in Board's Order No. 77384 to the Canadian National Railways.

The Canadian National Railways' counsel at this point stated that it was their understanding that if they paid the cost of installation and maintenance the city would close Second Avenue as car drivers used this street to cross

Canadian National tracks to the Canadian Pacific Station and to cross the Canadian Pacific tracks when Main Street was occupied by Canadian National trains, thereby creating a condition which was of great concern to the officers of the Canadian National Railways. The city denied that they had given any understanding in this regard and the files of the Board agree with the city's contention.

Both Tupper and Main Streets are old highways entering the city from the north and carry a great deal of traffic, originating on the Portage Plains which lie to the north of the city, to and from the city. There is also a considerable business and residential area on both sides of the tracks.

The Canadian Pacific tracks at Tupper Street consist of two main lines and two switch lines and a few yards north are the tracks of the Manitoba & Northern Railway. The city submits that the main lines of the Canadian Pacific carry very heavy traffic with a poor view, particularly for north- and south-bound traffic and for north-bound traffic as far as the Manitoba and Northern are concerned.

In the case of Main Street, the Canadian Pacific Railway has two main lines and one spur and, in addition, another spur line slightly north of the main line which is really an extension of the Manitoba & Northern and travels east and west across Main Street. In regard to this extension the visibility is good for south-bound traffic and is reasonably good for north-bound traffic. When the watchman is not on duty at this crossing the number of white lights make it doubly necessary to have coloured flashing lights as the white lights nullify the headlights of trains.

The City of Portage la Prairie is of the opinion that the Railways are now paying the watchmen's wages at both Tupper and Main Streets and that by the substitution of improved protection the railways will save considerable money, but the railways' counsel pointed out that the suggested protection would still require the services of watchmen in the town with which it is proposed to control the lights and gates at both streets.

The city feels that the proposed change will benefit the Railway, giving twenty-four-hour protection, and as it is not an original installation but a change in the method of protection that it should not be called upon to contribute, in fact would not ask for mechanical protection if it is going to be charged for any part of the installation or maintenance.

One reason given for not contributing is the fact that the City of Portage la Prairie is under the financial control of the Public Utilities Commission of the Province of Manitoba and will be for some time. For that reason they have to submit all expenditures to the Commission for approval and as the city pointed out there are several public works being contemplated for Portage la Prairie, i.e., extension of sewer and water works and a housing development, which mean large sums of money, and thus they will not be in a position to finance any protection at the streets under consideration. His Worship the Mayor, when asked the amount of the city debt, said the bonded indebtedness was \$281,000, against which the city had a cash deposit of \$110,000 (which was in control of the Public Utilities Commission).

I am of the opinion that a net bonded indebtedness of \$171,000 for a city such as Portage la Prairie is not such a handicap, and, taking into consideration everything His Worship the Mayor put forward and the expenditure contemplated, I am of the opinion their cost of the proposed protection is but a small amount to contribute towards the safety of the citizens of Portage la Prairie. I therefore consider that while the other works mentioned are needed the cost of the city's portion of the total price of the automatic protection should be placed before the Public Utilities Commission for their consideration.

The Canadian Pacific Railway Company filed an estimate of the cost of automatic protection at Tupper and Main Streets as \$47,300, providing that the Manitoba & Northern track was not intended to be included and the Board does not include the Manitoba & Northern track in this protection at Tupper Street. The cost of maintenance of the proposed installation is estimated to be \$750 per year and the operating costs \$10,860, a total of \$11,610 per year.

Canadian Pacific Railway counsel stated the present cost of the two watchmen at the two crossings is \$15,130 per annum and that this installation would mean a saving of \$4,270 per year, the cost of operation being \$10,860 yearly. He further stated the Company was prepared to agree to the protection on the following basis:

- (1) A contribution of 40 per cent of the cost from the Railway Grade Crossing Fund.
- (2) The balance of the cost of installation, and the cost of maintenance and operation to be divided equally between the Railway and the city.

The Board is, therefore, of the opinion that automatic protection should be installed at Tupper and Main Streets, of the same type as that installed by the Canadian National Railways to protect their crossings of these two streets.

The Board therefore orders,—

- (1) That within ninety days from this date the Canadian Pacific Railway Company install, operate and maintain two short-arm gates, two flashing light signals, and two bells, in lieu of the existing watchmen at the crossing of their Railway and Tupper Street in the City of Portage la Prairie, in the Province of Manitoba, and two short-arm gates, two flashing light signals, and two bells, in lieu of the existing watchmen at the crossing of their Railway and Main Street in the City of Portage la Prairie, in the Province of Manitoba. The plans for these installations are to be filed with the Board's Engineering Department for approval.
- (2) That the protection hereby ordered be installed in accordance with the provisions of General Orders Nos. 607 and 676.
- (3) That such protection be manually operated from an elevated gate tower located approximately midway between Tupper and Main Streets in the said City, between the hours of 7 a.m. and 11 p.m. and automatically operated from 11 p.m. to 7 a.m. daily.
- (4) That no engine, car, or train shall pass over the crossings of the Canadian Pacific Railway and Tupper and Main Streets in the City of Portage la Prairie at a speed greater than ten miles an hour.
- (5) That 40 per cent of the cost of installation of the protection ordered be paid from the Railway Grade Crossing Fund, not exceeding the sum of \$18,920, the remainder of such cost, as well as the cost of maintenance and operation to be divided equally between the Canadian Pacific Railway and the City of Portage la Prairie.

Order to issue accordingly.

FRANK M. MACPHERSON.

OTTAWA, September 16, 1952.

I concur:

JOHN D. KEARNEY.

ORDER No. 79782

In the matter of the application of the City of Portage la Prairie, Manitoba, requesting additional protection at the crossing of the tracks of the Canadian Pacific Railway Company and Tupper Street in the said City; and in the matter of apportionment of the cost of such additional protection, if ordered by the Board:

Case No. 4803

And in the matter of the application of the City of Portage la Prairie, Manitoba, requesting additional protection at the crossing of the tracks of the Canadian Pacific Railway Company and Main Street in the said City; and in the matter of apportionment of the cost of such additional protection, if ordered by the Board:

File No. 16545

FRIDAY, the 19th day of September, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*F. M. MACPHERSON, *Commissioner.*

Upon hearing the applications at the City of Portage la Prairie, Manitoba, in the presence of Counsel for the City of Portage la Prairie, the Canadian Pacific Railway Company, and the Canadian National Railways, and a representative of the City of Portage la Prairie—

It is ordered

1. That, within ninety days from the date of this Order, the Canadian Pacific Railway Company install, operate and maintain two short-arm gates, two flashing light signals and two bells, in lieu of the existing watchmen at the crossing of its railway and Tupper Street in the City of Portage la Prairie, in the Province of Manitoba.

2. That, within ninety days from the date of this Order, the Canadian Pacific Railway Company install, operate and maintain two short-arm gates, two flashing light signals and two bells, in lieu of the existing watchmen, at the crossing of its railway and Main Street in the City of Portage la Prairie, in the Province of Manitoba.

3. That the protection hereby ordered be installed in accordance with the provisions of General Orders Nos. 607 and 676; detailed plans showing the layout thereof to be submitted for the approval of an Engineer of the Board.

4. That the protection hereby ordered be manually operated from an elevated gate tower located approximately midway between Tupper Street and Main Street in the City of Portage la Prairie between the hours of 7 a.m. and 11 p.m. and automatically operated between the hours of 11 p.m. and 7 a.m. daily.

5. That no engine, car or train shall pass over the said crossings at a speed greater than ten miles an hour.

6. That forty per cent of the cost of installing the protection hereby ordered, not exceeding, however, the sum of \$18,920.00, be paid out of the Railway Grade Crossing Fund, and the remainder of such cost, as well as the cost of maintenance and operation, be borne and paid in equal amounts by the Canadian Pacific Railway Company and the City of Portage la Prairie.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 79770

In the matter of Agreed Charge between certain railway companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Champlain Oil Products, Limited, Cities Service Oil Company, Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited, and Shell Oil Company of Canada, Limited, on petroleum products as therein specified in carloads, tank cars only, from refineries, marine terminals and storage tanks in the Province of Quebec (also Ottawa, Ontario), therein specified to points in the Province of Quebec and Ontario, which Agreed Charge was approved by Order No. 59714, dated October 2, 1940:

File No. 40994-16

THURSDAY, the 18th day of September, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

WHEREAS The British American Oil Company, Limited of Toronto, Ontario, has made application under Subsection 6 of Section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products shipped from its marine terminal (when established) at Rimouski, Quebec, to points in the Province of Quebec, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the Agreed Charge approved by Order No. 59714, dated October 2, 1940, as modified by Order No. 71599, dated November 30, 1948, be, and it is hereby, fixed for the transport of petroleum products as described in paragraph B of of the said Agreed Charge, by the railway companies which are parties thereto, from the marine terminal (when established) of The British American Oil Company, Limited, at Rimouski, Quebec, to railway stations and/or destinations in the Province of Quebec, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid, is to come into operation.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 79816

In the matter of the application of the Governor and Company of Adventurers of England Trading into Hudson's Bay (commonly known as "Hudson's Bay Company"), for a licence under Section 10 of The Transport Act, 1938:

And in the matter of Order No. 78449, dated March 4, 1952:

File No. 42076-34

TUESDAY, the 23rd day of September, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 78449, dated March 4, 1952, be, and it is hereby, amended by striking out the words and figures "H.B.C. Barge No. 105—175570—100" in the list of vessels given in paragraph numbered 1 of the said Order.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 79819

In the matter of the application of the Railway Association of Canada on behalf of its member lines for an Order amending Order No. 3258 dated July 6, 1907, as amended:

Case No. 1314

WEDNESDAY, the 24th day of September, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

WHEREAS the Board in its Judgment dated January 25, 1952, authorizing a general increase in freight rates undertook to "consider giving relief from any prohibiting freedom of action which may now prevail by the maintenance of Order 3258" if the railways desire to implement their revenues to meet further increasing costs;

AND WHEREAS the Applicant seeks such relief to enable it to file tariff schedules accordingly;

AND WHEREAS the Board considers that the changes in traffic conditions which have occurred since Order No. 3258 was made justify granting relief therefrom;

It is ordered that notwithstanding the provisions of any judgment, order, rule or regulation of the Board now in effect to the contrary the Applicant be, and is hereby, permitted to file, on statutory notice, such tariffs as may be deemed necessary in substitution for present tariffs governed by Order No. 3258, as amended by various relevant Orders extending the effect thereof and varying the level of rates therein prescribed, subject to the right of any person to file objection with the Board to any such substituted tariffs.

JOHN D. KEARNEY,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
AUGUST, 1952

Railway Accidents	333	Killed 20	Injured 346
Level Crossing Accidents	27	Killed 22	Injured 34
Totals.....	360	42	380

		Killed	Injured
Passengers		—	74
Employees		6	255
Others		36	51
Totals.....		42	380

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NEW BRUNSWICK

Accidents	K.	I.	
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 62-291.

QUEBEC

1	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.Y. 6-V-4684.
1	—	1	Young boy attempted to board passing train at crossing and fell between cars.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-15572.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 250-979.
1	—	1	Automobile ran into side of train. Licence: Que. 166101.
1	1	—	Automobile ran into side of train. Licence: Ont. 35-E-19.
1	1	8	Automobile ran into side of train. Licence not given.

ONTARIO

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 316-U-1.
1	1	1	Auto Jeep drove onto crossing in front of approaching train and was struck. Licence: Ont. 3837-X.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	4	Automobile stalled on crossing and was struck by train. Licence: Ont. 5-K-552.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. CZ-489.
1	5	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. P-1464.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 89-B-42.
1	—	1	Automobile ran into side of train. Licence: Ont. S-1593.
1	1	—	Auto truck ran into side of train. Licence: Ont. B-56832.
1	3	—	Automobile stalled on crossing and was struck by train. Licence: Ont. 41-T-14.

MANITOBA

1	—	1	Bicycle drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.

SASKATCHEWAN

1	4	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 86-890.

ALBERTA

- 1 — 6 Automobile ran into side of train. Licence: Alta. 96-Y-99.
 1 — 1 Road Grader drove onto crossing in front of approaching train and was struck. Licence not given.

BRITISH COLUMBIA

- 1 — 1 Auto truck stalled on crossing and was struck by train. Licence: B.C. C-21417.
 1 — 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-66-275.
 1 — 1 Pedestrian walked onto crossing in front of approaching train and was struck.

Of the 27 accidents at highway crossings, 18 occurred at unprotected crossings, and 9 at protected crossings. Twenty-three occurred after sunrise and four after sunset.

OTTAWA, Ont., October 1, 1952.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79751 Sept. 15—Amending Order No. 79414 dated July 17, 1952, *re* signal changes at crossing of C.N.R. and C.P.R. at Marden, Ont.
- 79752 Sept. 15—Approving plan showing signal changes to be made at interlocking of Grand River Rly. and the C.N.R. at Forbes, Ont.
- 79753 Sept. 15—Permitting the removal of slow order at N.Y.C. Rly. crossing of Dufferin Ave., Petrolia, Ont.
- 79754 Sept. 15—Approving Traffic Agreement between The Bell Telephone Co. and Town of Kenora, Ont.
- 79755 Sept. 15—Authorizing the C.N.R. to close crossing at mileage 61.34 Camrose Subdivision, Province of Alberta.
- 79756 Sept. 15—Authorizing the C.N.R. to operate bridge at mileage 16.95 Yale Subdivision, British Columbia.
- 79757 Sept. 15—Authorizing the N.Y.C. Rly. Co. to re-classify 1.43 miles of track from main line to side track in City of Windsor, Ont.
- 79758 Sept. 15—Approving plans showing track and signalling lay-out as installed on the C.N.R. Oba Subdivision.
- 79759 Sept. 15—Approving plan showing additional signalling protection at Hornepayne, Ont., on line of C.N.R.
- 79760 Sept. 15—Authorizing the C.N.R. to operate their trains through interlocking at crossing of N.Y.C. Rly. Co. at Southwold, Ont.
- 79761 Sept. 16—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its pipe line across the Vedder River, B.C.
- 79762 Sept. 16—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its line across the Miette River, Jasper National Park, Alberta.
- 79763 Sept. 16—Authorizing the C.P.R. to operate its trains through interlocking at temporary track at Vaudreuil, Que.
- 79764 Sept. 16—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its line across the Miette River, Jasper National Park, Alberta.
- 79765 Sept. 16—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its line across the Miette River, Jasper National Park, Alberta.
- 79766 Sept. 16—Restricting the speed of trains at Montreal & Southern Counties Rly. Co. crossing of Sir Wilfrid Laurier Boulevard, St. Lambert, Que.
- 79767 Sept. 16—Authorizing the C.P.R. to construct a siding across the road allowance near Kincorth, Sask.
- 79768 Sept. 16—Restricting the speed of C.N.R. trains at crossing of Jeanne D'Arc St., Montreal, Que.
- 79769 Sept. 17—Approving location of Quebec North Shore & Labrador Rly. Co. line in unsurveyed territory in Province of Quebec.
- 79770 Sept. 18—Fixing Agreed Charge approved by Orders Nos. 59714 and 71599 for transport of petroleum products by the railway companies, parties thereto, from marine terminal of the B.A. Oil Co. at Rimouski, Que., to points in Quebec.
- 79771 Sept. 18—Authorizing the C.P.R. to construct siding extension near Cummings, Sask.
- 79772 Sept. 18—Authorizing the Manitoba Dept. of Public Works to divert the surveyed road at mileage 48.5 Cowan Subdivision, C.N.R.
- 79773 Sept. 18—Requiring the Great Northern Rly. Co. to install protection at crossing of Renfrew St., Vancouver, B.C.
- 79774 Sept. 18—Authorizing the C.P.R. to install automatic block signals from Bolton to Medonte, Ont.
- 79775 Sept. 18—Amending Order No. 79645 *re* accident at crossing of C.N.R. and Beach Road, Hamilton, Ont.
- 79776 Sept. 18—Approving proposed location of pipe lines, etc., of Canadian Oil Companies Ltd., near C.N.R. tracks at New Glasgow, N.S.
- 79777 Sept. 18—Approving proposed location of storage tank, etc., of N. J. Stadler near C.P.R. tracks at Patrick, Sask.
- 79778 Sept. 18—Approving proposed location of pipe lines, etc., of Imperial Oil Ltd., near C.N.R. tracks at Ridgeville, Man.
- 79779 Sept. 18—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.N.R. tracks at Lumby, B.C.
- 79780 Sept. 18—Granting leave to Trans Mountain Oil Pipe Line Co. to carry its pipe line across all highways, etc., Municipality of Chilliwack, B.C.
- 79781 Sept. 19—Approving proposed location of pipe lines, etc., of Canadian Gulf Oil Co. near C.N.R. tracks at Big Valley, Alta.
- 79782 Sept. 19—Requiring the C.P.R. to install protection at crossing of Tupper St., Portage la Prairie, Man.
- 79783 Sept. 19—Approving proposed location of storage tank of Department of National Defence near tracks of White Pass and Yukon Route, at Whitehorse, Yukon Territory.
- 79784 Sept. 19—Approving proposed location of storage tank, etc., of the C.N.R. near their tracks at Calder Yard, Edmonton, Alta.

- 79785 Sept. 19—Approving proposed location of pipe lines, etc., for handling of inflammable liquids Class II of C.N.R. near their tracks at Vancouver, B.C.
- 79786 Sept. 19—Permitting the removal of slow order at C.P.R. crossing near Block Road Station, Ont.
- 79787 Sept. 19—Authorizing The Bell Telephone Co. to construct lines of telephone along certain highways in Township of Harwick, Ontario.
- 79788 Sept. 19—Relieving the C.P.R. from erecting cattle guards at crossings at certain mileages on its Neudorf Subdivision, Saskatchewan.
- 79789 Sept. 19—Relieving the C.N.R. from erecting cattle guards at certain crossings on their Broadview Subdivision, Saskatchewan.
- 79790 Sept. 19—Approving under Maritime Freight Rates Act tolls published in tariffs filed by C.N.R. under Section 3.
- 79791 Sept. 19—Relieving the Esquimalt & Nanaimo Rly. Co. from erecting cattle guards at certain crossings on its Victoria Subdivision, British Columbia.
- 79792 Sept. 19—Relieving the C.N.R. from erecting fencing at certain points on its lines in Saskatchewan.
- 79793 Sept. 19—Approving operation of C.N.R. trains over private siding of the Cabot Carbon of Canada, Ltd., Sarnia, Ont.
- 79794 Sept. 19—Authorizing the Department of National Defence to construct the highway across the C.N.R. at mileage 64.9 Pleasant Point Subdivision, Manitoba.
- 79795 Sept. 19—Permitting the removal of slow order at C.N.R. crossing of Fifth Ave., at Ville St. Pierre, Que.
- 79796 Sept. 19—Approving plan, etc., showing location of Trans Mountain Oil Pipe Line Co. pipe line in Municipality of Coquitlam, British Columbia.
- 79797 Sept. 19—Approving plan showing location of Trans Mountain Oil Pipe Line Co. pipe line within Northern Alta. Land Registration District, Province of Alberta.
- 79798 Sept. 20—Authorizing New Superior Oils of Canada to construct a gas line across the company line of the Interprovincial Pipe Line Co. in Sec. 11-50-R22-W4M, Alberta.
- 79799 Sept. 20—Requiring the C.N.R. to install protection at crossing of Baldwin St., Barrie, Ont.
- 79800 Sept. 20—Approving proposed location of storage tank, etc., of Polo Park Garage, near C.N.R. at St. James, Man.
- 79801 Sept. 20—Permitting the removal of slow order at C.N.R. crossing of 4th Concession Road, Township of Scarboro, Ontario.
- 79802 Sept. 20—Requiring the Napierville Junction Rly. Co. to install protection at crossing in Municipality of St. Jacques le Mineur, Que.
- 79803 Sept. 20—Amending Order No. 78757 dated April 15, 1952, approving tolls published in Tariff C.T.C. No. 1210 filed by Dominion Atlantic Rly. Co.
- 79804 Sept. 22—Approving proposed location of pipe lines, etc., of Imperial Oil Ltd., near C.N.R. tracks at London, Ont.
- 79805 Sept. 22—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near tracks of C.P.R. at Buckingham, Que.
- 79806 Sept. 22—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.P.R. tracks at St. Jovite, Que.
- 79807 Sept. 23—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 47, Goodwood, Ont.
- 79808 Sept. 23—Authorizing the British Columbia Department of Public Works to construct an overhead bridge over the C.P.R. at mileage 1.79 Princeton Subdivision.
- 79809 Sept. 23—Approving plan showing location of Trans Mountain Oil Pipe Line Co. pipe line within the North Alta. Land Registration District, Alberta.
- 79810 Sept. 23—Approving plans showing location of Trans-Northern Pipe Line Co. pipe line Township of East Whitby to Township of North York, Ontario.
- 79811 Sept. 23—Approving Appendix to Traffic Agreements between The Bell Telephone Co. and The McNab Telephone Co. Ltd.
- 79812 Sept. 23—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Kerr Line Telephone Co. Ltd.
- 79813 Sept. 23—Authorizing the Alberta Department of Highways to re-align and widen the highway at mileage 68.30 Camrose Subdivision, Province of Alberta.
- 79814 Sept. 23—Approving proposed location of storage tank of Imperial Oil Ltd., near tracks of C.P.R. at Valmarie, Sask.
- 79815 Sept. 23—Authorizing the Town of Bowness, Alta., to construct Eighth Ave. across the C.P.R., Bowness, Alta.
- 79816 Sept. 23—Amending Order No. 78449, dated March 4, 1952, *re* application of Hudson's Bay Co. for a licence under Section 10 of The Transport Act.
- 79817 Sept. 24—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its pipe line across Fiddle Creek, Province of Alberta.
- 79818 Sept. 24—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its pipe line across Sumas Channel, Province of British Columbia.

- 79819 Sept. 24—Permitting the Railway Association of Canada to file on statutory notice, such tariffs as may be deemed necessary in substitution for present tariffs governed by Order No. 3258, as amended by various relevant orders.
- 79820 Sept. 24—Authorizing the Alberta Department of Highways to widen its highway across the C.N.R. at mileage 119·2 Drumheller Subdivision, Province of Alberta.
- 79821 Sept. 24—Restricting the speed of trains over C.N.R. crossing of 104th Avenue between 108th and 109th Streets, Edmonton, Alta.
- 79822 Sept. 30—Authorizing Alberta Department of Highways to widen its highway across the C.N.R. at mileage 120·3 Three Hills Subdivision, Province of Alberta.
- 79823 Sept. 24—Permitting the removal of slow order at C.P.R. crossing first east of station at Outlook, Sask.
- 79824 Sept. 24—Requiring the Napierville Junction Rly. Co. to install protection at crossing of Highway No. 9A, Napierville, Que.
- 79825 Sept. 24—Requiring the C.P.R. to install additional protection at crossing mileage 1·076 Thompson Subdivision, west of Kamloops, B.C.
- 79826 Sept. 24—Suspending operation of Order No. 77380, dated Sept. 15, 1951, until the Board orders otherwise: (P.E.I. one rate zone).
- 79827 Sept. 24—Permitting the removal of slow order at C.N.R. crossing of Park St., Brockville, Ont.
- 79828 Sept. 25—Requiring the C.N.R. to construct a subway under their railway at Woodbine Ave., Toronto, Ont.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, November 1, 1952

No. 15

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Corporation of the City of Toronto, Ontario, under Sections 39, 257 and 259 all other relevant sections of the Railway Act, for an Order directing the Canadian Pacific Railway Company to proceed with the grade separation on Dufferin Street in the said city under the tracks of the Canadian Pacific Railway Company's North Toronto Subdivision, as provided in Board Order No. 35037, dated May 9, 1924; and for an Order granting a contribution from the Railway Grade Crossing Fund toward the cost of the work and apportioning the remainder of the said cost between the interested parties.

File No. 32453-12

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
FRANK M. MACPHERSON, *Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

F. A. A. CAMPBELL, Q.C., for the City of Toronto.
K. D. M. SPENCE and F. S. BURBIDGE, for the Canadian Pacific Railway Company.
F. A. BURGESS, for the Bell Telephone Company of Canada.
F. CAWTHORNE, Q.C., for Toronto Electric Commission.

HEARD at Toronto, Ontario, June 16 and 17, 1952.

JUDGMENT

MACPHERSON, Commissioner:

Description of the Crossing

Dufferin Street is crossed by the Canadian Pacific Railway, North Toronto Subdivision, at mileage 4.75, there being at present two tracks across the street. The street is admittedly senior to the Railway. The street carries very heavy traffic varying from 10,000 to 14,000 vehicles per day and the rail traffic, which is entirely freight traffic, is also heavy, there being approximately 65 train movements per day over the crossing, most of which are through movements but a few are switching moves—all train movements over the crossing being at slow

speeds due largely to a diamond crossing a short distance to the west over the C.N.R. Newmarket Subdivision. The street at and near the crossing is only 24 feet in width, this narrow width extending from Dupont Street on the south to approximately 140 feet south of Brandon Street on the north. The remainder of the street both north and south is 42 feet wide. This narrow portion of the road will have to be widened when the subway is constructed as the proposed width between the face of the abutment walls is 66 feet, as shown on recent plans. The area in the vicinity of the crossing is densely populated and there is considerable commercial activity in the vicinity. There are no street cars or trolley buses operating on Dufferin Street and the city claimed that the Toronto Transportation Commission had no plans for using this street either at present or in the future.

Protection and Accident Record

The crossing is protected by manually-operated gates twenty-four hours per day, which protection was ordered by the Privy Council on January 8, 1891. It was stated in evidence by Mr. Allan, City Engineer, that the city pays 5/12ths and the Canadian Pacific Railway Company pays 7/12ths of the cost of maintenance and operation, the total cost per year being approximately \$10,500, of which the city's share is approximately \$4,400 and the Railway's share \$6,100. This was not disputed by the Railway.

The accident record of the crossing is very good as there is a record on the Board's file of only one minor accident involving personal injuries, which accident occurred on January 25, 1952, when the driver of a motor car went through the lowered gate and crashed into a train, two people being slightly injured.

Hearings before the Board

As the result of a hearing by the Board on February 14, 1923, Board's Order No. 35037 issued authorizing the construction of subways at thirteen grade crossings, one of which was Dufferin Street, and this Order has never been rescinded.

On application of the City of Toronto dated March 25, 1947, a hearing of the Board was held in Toronto on June 22, 23, and 24, 1948, when applications for the construction of subways at Royce Avenue (Dupont), Jones Avenue, Woodbine Avenue, Dufferin Street and Symington Avenue, were heard. In Judgment of November 5, 1948, the Canadian National Railways were directed to proceed with the construction of subways at Royce Avenue (Dupont) and Jones Avenue, but the construction of the remaining three subways was deferred to a later date. Royce (Dupont) and Jones Avenue subways are now completed and in use.

At the hearing held on June 16 and 17, 1952, the city contended that the need for a subway at this point was very essential, that there was a distinct danger to the public and that the level crossing as it exists is a very definite block to this essential traffic lane and that Section 257 of the Railway Act applied in this case. They also contended that a very substantial portion of the cost should be assessed against the Railway and that the public utilities should alter their facilities at their own cost.

The Railway contended that the accident record indicated the crossing as presently protected was not a dangerous one, and that the need for a subway was essentially for the convenience rather than the safety and protection of road traffic. They further contended that the construction of the subway was part of a plan to lead major traffic to this street, which does not at present carry. They claimed that little advantage would be gained by the Railway from the construction of this grade separation and that they should not be assessed any major portion of the cost. They agreed with the city that no portion of the cost of re-arrangement of the plants of utilities should be included in the cost.

The Bell Telephone representative contended very vigorously that the cost of the readjustment of their plant necessitated by such subway, amounting to \$52,000, should be included in the cost of the work, and if the Board would not agree to this that at least a part of the contribution from the Railway Grade Crossing Fund equal to the percentage of their costs to the total cost of the work should be paid to them.

The Toronto Electric Commission representative asked that their costs be included in the cost of the subway but admitted that past Judgments of the Board appeared to rule against their claim.

Summary

There is little doubt that grade separation by the construction of a subway is justified. While convenience in this case is a very large factor no level crossing even though protected by the best available protective equipment, is entirely safe where traffic is as heavy as it is at this crossing. Any interruption of road traffic is a danger in itself especially as in this case where traffic is liable to be backed up beyond intersecting roads. A subway at this point will benefit the Railway by being relieved from their portion of the cost of maintenance and operation of the existing protection and the maintenance of the crossing itself, as well as other advantages which a subway will provide. It is felt that in consideration of all the factors in this case, after a maximum contribution from the Railway Grade Crossing Fund, that the major share of the cost should be placed upon the city and that a fixed sum of \$150,000 should be assessed against the Canadian Pacific Railway Company.

The practice of the Board in cases where grade separation ordered by the Board for the protection, safety, and convenience of the public makes it necessary for public utilities to remove their plant, is set forth at length in the Board's Judgment in *Toronto v. C.N.R. and C.P.R.*, 63 C.R.T.C. 261. I see no reason to depart from that practice in this case. The subway is essentially for the protection, safety, and convenience of the public using the crossing, and I consider the reasons of protection and safety to be sufficiently strong to justify placing on the utilities concerned the whole cost of readjusting their plants.

I am, therefore, of the opinion that a fair allocation of the cost of construction of this subway, after a contribution of 40 per cent, not exceeding \$150,000, is paid from the Railway Grade Crossing Fund, is the assessment of the Canadian Pacific Railway Company in the sum of \$150,000, the remainder of such cost to be borne by the City of Toronto. The maintenance cost of the subway shall be borne 75 per cent by the City of Toronto and 25 per cent by the Canadian Pacific Railway Company, the roadway, sidewalks, and lighting to be maintained by the City, and the railway structure over the subway to be maintained by the Railway Company.

The utilities concerned shall remove and relocate their facilities at their own expense.

Order to issue accordingly, construction to be in accordance with Board's General Order No. 589, and detailed plans to be filed for the approval of the Board.

FRANK M. MACPHERSON.

OTTAWA, September 22, 1952.

I concur:

JOHN D. KEARNEY.

I concur:

H. B. CHASE.

ORDER No. 79829

In the matter of the application of the Corporation of the City of Toronto, Ontario, under Sections 39, 257 and 259 and all other relevant sections of the Railway Act, for an Order directing the Canadian Pacific Railway Company to proceed with the grade separation on Dufferin Street in the said city under the tracks of the Canadian Pacific Railway Company's North Toronto Subdivision, as provided in Board Order No. 35037, dated May 9, 1924, and as shown on plan J-130A, revised to May 21, 1952, and for an Order granting a contribution from the Railway Grade Crossing Fund toward the cost of the work and apportioning the remainder of the said cost between the interested parties:

File No. 32453·12

THURSDAY, the 25th day of September, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

FRANK M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in Toronto, Ontario, June 16 and 17, 1952, in the presence of Counsel for the City of Toronto, the Canadian Pacific Railway Company, The Bell Telephone Company of Canada and the Toronto Electric Commission—

It is ordered

1. That the Canadian Pacific Railway Company construct a subway under its railway at Dufferin Street, in the City of Toronto, in the Province of Ontario, as shown on the said plan on file with the Board under file No. 32453·12.

2. That the subway hereby ordered be constructed in accordance with the provisions of General Order No. 589; detailed plans to be submitted for the approval of an Engineer of the Board.

3. That forty per cent of the cost of construction of the said subway, not exceeding, however, the sum of \$150,000.00, be paid out of the Railway Grade Crossing Fund, \$150,000.00 be borne and paid by the Canadian Pacific Railway Company and the remainder of such cost be borne and paid by the Corporation of the City of Toronto.

4. That the cost of maintenance of the subway structure be borne and paid seventy-five per cent by the Corporation of the City of Toronto and twenty-five per cent of the Canadian Pacific Railway Company; the Canadian Pacific Railway Company to maintain its own track structure over the subway and the City of Toronto to maintain the roadway, sidewalks and lighting.

5. That the cost of such removal or relocation of the plant and equipment of any public utility as may be necessary by reason of the construction of the subway be borne and paid by the Commission or Company operating the public utility.

JOHN D. KEARNEY,
Chief Commissioner.

In the matter of the application of the Corporation of the City of Toronto, Ontario, under Sections 39, 257, 259, and such other appropriate sections of the Railway Act for an Order directing the Canadian National Railways to construct a subway on Woodbine Avenue in the said city, under the tracks of the Canadian National Railways' Oshawa Subdivision, and for an Order granting a contribution from the Railway Grade Crossing Fund and apportioning the remainder of the cost of the work between the interested parties.

File 9437-102

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

FRANK M. MACPHERSON, *Commissioner.*

HOWARD B. CHASE, C.B.E., *Commissioner.*

Appearances:

F. A. A. CAMPBELL, Q.C., for the City of Toronto.

A. H. HART, for the Canadian National Railways.

F. A. BURGESS, for the Bell Telephone Company of Canada.

F. CAWTHORNE, Q.C., for the Toronto Electric Commission.

HEARD at Toronto, Ontario, June 16. 1952.

JUDGMENT

MACPHERSON, Commissioner:

Description of Crossing

This crossing is over an old concession road now known as Woodbine Avenue and this road is admittedly senior to the railway. It is at present crossed by four tracks, two main line tracks, one service track, and one industrial spur, at mile 329.22 of the Oshawa Subdivision, Canadian National Railways. The crossing is at a good angle, the street running north and south, the railway east and west, the crossing being at an angle of approximately 80° between the railway and street. Woodbine Avenue is one of the main north and south traffic lanes in the eastern part of the city. A short distance north of the crossing it crosses Danforth Avenue and to the south Gerrard Street. The new extension of Keating Avenue along the waterfront to the south, now under construction, will cross Woodbine Avenue. The present approach from the north is on a downgrade of approximately 3 per cent and from the south on an upgrade of approximately 1 per cent. This makes a long approach to the north necessary when a subway is considered and adds greatly to the cost. The grade of the railway at and near the crossing is approximately 1 per cent rising from west to east, making it impossible to raise the railway at the point of crossing.

Present Protection

The crossing is presently protected by manually operated gates twenty-four hours per day, which protection was ordered by Board's Order No. 30500 dated January 3, 1921. The cost of maintenance and operation is assessed 50 per cent to the city and 50 per cent to the Railway. The present annual cost of protection is roughly \$11,000, of which the Railway and the City each pay approximately \$5,500 and which costs will naturally be eliminated by the construction of a subway.

Traffic Conditions

According to the evidence of Mr. Allan, City Engineer, a traffic count taken on January 3rd and 4th indicated that in twenty-four hours there were 117 train

movements over the crossing, the total crossing time of these trains being four hours, ten minutes, and 46 seconds. During this time 1,158 pedestrians, 3,556 northbound vehicles and 3,330 southbound vehicles crossed—a total of 6,883. On January 4th and 5th the train movements were 99 and the total vehicular movements 6,083. Some discussion arose as to whether these figures were indicative of traffic conditions but it is quite evident that rail, pedestrian and vehicular traffic is very heavy and that the crossing is blocked for a considerable length of time each day by train movements.

Cost of Subway

The cost of the work of construction of this subway is estimated to be \$1,267,760 and the cost of resulting land damage \$875,000, in all \$2,142,760. The estimated cost of construction was arrived at by the city in co-operation with the Railway and, as indicated on plans filed, is not disputed. However, it was claimed by the Railway that while the grades of approach of 5 per cent are shown, which is Board's standard, by increasing these grades of approach to 6 per cent a very great saving would be made and that 6 per cent grades have proven quite satisfactory in a number of similar cases. The city agreed that this might be considered. There are a number of streets at present entering or crossing Woodbine Avenue which will be seriously affected by the approaches to this subway, viz., Mendel Avenue, Merrill Avenue, Aldergrove Avenue on the north and Darrell Avenue on the south. The Railway claimed that these intersecting streets, if they are to remain open—as is called for by the present plans—not only create a hazard to road traffic but their closing would greatly decrease the cost of the work. The Railway argued that the subway would eliminate the danger at the crossing only to create another hazard to highway traffic as great, if not greater, than presently exists. The city agreed to consider this feature but claimed that additional construction costs as well as very heavy property damage resulting from the closing of these streets might well increase rather than decrease the general cost of the work.

The present width of Woodbine Avenue is 66 feet and the paved portion 24 feet. The width of the proposed subway is 66 feet from the face of abutments, with a centre pier, two nine-foot sidewalks, and two 22-foot clear roadways. This will necessitate the widening of the street to its full width on both sides of the subway.

Accident Record

The accident record since the installation of manually-operated gates in 1921 has been very good, only one serious accident having occurred, and the gateman on duty at the crossing was charged with criminal negligence.

Submissions

Numerous submissions for the city were made by parliamentary representatives of the district. The Mayor of Toronto, corporation representatives, and private citizens drew to the attention of the Board the pressing need for grade separation at this point, the city's contention being that, regardless of the efficiency of present protection, there is always a hazard at a level crossing and that the presence of the railway has created a very serious barrier to the free flow of traffic on this street on which traffic is very heavy. They contended that a very substantial portion of the cost should be placed on the railway.

The Canadian National Railways' representative claimed very forcibly that this crossing is not a dangerous one as presently protected,—that the good accident record proved this contention. As previously stated, he contended that savings could be made by increasing the grades of approach to 6 per cent and also by the closing of some, if not all, of the intersecting streets. He also claimed

that much of the work involving extensive expenditures, such as the widened paving of approaches to and through the subway, including sidewalks as proposed, should not be included in costs of which the railway is required to pay any portion. It was claimed that the railway should not be assessed any substantial portion of the cost and if the Board did not agree with this view the railway should not be assessed a greater amount than that contributed from the Railway Grade Crossing Fund.

The representative for the Bell Telephone Company contended that their costs, amounting to \$24,000 for removal and readjustment of their plant, should be included as part of the cost of the work, but if the Board did not agree to this that at least they should be paid an amount from the Railway Grade Crossing Fund equal to the proportion of their costs to the cost of construction of the subway.

The representative of the Toronto Electric Commission stated that their costs would be \$85,000 for the removal and readjustment of their facilities, and asked that they be treated in the same manner as other public utilities which are moved.

Summary

There is little doubt that grade separation at this crossing, where the traffic on both the street and the railway is so heavy, is desirable. It is evident that a considerable portion of the need for grade separation is the convenience of street traffic rather than protection and safety. The safety record of the crossing since the present form of protection has been installed is good. However, regardless of this, no such crossing at grade can be considered free from danger. Where street traffic is heavy the backing up of vehicular traffic for the passage of trains is in itself dangerous. It must, therefore, in this case, be considered that the building of a subway at this crossing is for the safety, protection and convenience of the public and that a contribution from the Railway Grade Crossing Fund is justified. While the Railway has some responsibility for creating this condition the major responsibility and expense will have to be upon the city. The Railway will benefit by the construction by being relieved of their share of the cost of maintenance and operation of the present protection. At the hearing there was considerable discussion as to items of cost applicable to the work, such as grades of approach, the closing of certain intersecting streets, and other points. In view of this it is felt that a fixed assessment should be placed on the Railway. After Order issues in this case, if the city feel that a grade of 6 per cent on the approaches will be safe or if they find that certain intersecting streets can be closed in the interests of safety and economy, the Board will be prepared to consider approval of a revised plan.

As pointed out in the Dufferin Street Judgment of today's date, I will adhere to the practice that where grade separation is ordered and the subway is constructed for the safety, protection and convenience of the public using the crossing, the public utilities concerned be directed to reconstruct their plants to meet the requirements of the crossing and that they pay the whole cost of such readjustment.

In view of all the circumstances of this case, I feel that a fair allocation of cost, after a contribution of 40 per cent of the construction costs, not exceeding the sum of \$150,000 is paid from the Railway Grade Crossing Fund, is the assessment of the Canadian National Railways in the sum of \$200,000, the remainder of such cost to be borne by the Corporation of the City of Toronto.

The cost of the maintenance of the subway structure is to be assessed 75 per cent to the Corporation of the City of Toronto and 25 per cent to the Canadian National Railways, the Railway to maintain their own track structure and the city to maintain the pavement, drainage, lighting and sidewalks.

Order will, therefore, go, according to the above terms, directing the Canadian National Railways to construct a subway under their tracks where they cross Woodbine Avenue at mileage 329.22 of their Oshawa Subdivision, construction to be in accordance with Board's General Order No. 589, detailed plans of the proposed structure to be filed for approval of an engineer of the Board, all public utilities affected to remove and relocate their facilities at their own expense.

FRANK M. MacPHERSON.

OTTAWA, September 22, 1952.

I concur:

JOHN D. KEARNEY.

I concur:

H. B. CHASE.

ORDER No. 79828

In the matter of the application of the Corporation of the City of Toronto, Ontario, under Sections 39, 257, 259 and such other appropriate sections of the Railway Act for an Order directing the Canadian National Railways to construct a subway on Woodbine Avenue in the said city, under the tracks of the Canadian National Railways' Oshawa Subdivision, as shown on plan No. J-134A, dated February 26, 1951, on file with the Board under file No. 9437-102, and for an Order granting a contribution from the Railway Grade Crossing Fund and apportioning the remainder of the cost of the work between the interested parties:

File No. 9437-102

THURSDAY, the 25th day of September, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in Toronto, Ontario, June 16, 1952, in the presence of Counsel for the City of Toronto, the Canadian National Railways, The Bell Telephone Company of Canada and The Toronto Electric Commission—

It is ordered

1. That the Canadian National Railways construct a subway under their railway at Woodbine Avenue in the City of Toronto, in the Province of Ontario, mileage 329-22 Oshawa Subdivision, as shown on the said plan on file with the Board under file No. 9437-102.

2. That the subway hereby ordered be constructed in accordance with the provisions of General Order No. 589; detailed plans to be submitted for the approval of an Engineer of the Board.

3. That forty per cent of the cost of construction of the said subway, not exceeding, however, the sum of \$150,000.00, be paid out of the Railway Grade Crossing Fund, \$200,000.00 be borne and paid by the Canadian National Railways and the remainder of such cost be borne and paid by the Corporation of the City of Toronto.

4. That the cost of maintenance of the subway structure be borne and paid seventy-five per cent by the Corporation of the City of Toronto and twenty-five per cent by the Canadian National Railways; the Canadian National Railways to maintain their own track structure and the City of Toronto to maintain the pavement, drainage, lighting and sidewalks.

5. That the cost of such removal or relocation of the plant and equipment of any public utility as may be necessary by reason of the construction of the subway be borne and paid by the Commission or Company operating the public utility.

JOHN D. KEARNEY,

Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79829 Sept. 25—Requiring the C.P.R. to construct a subway under its railway at Dufferin Street, Toronto, Ontario.
- 79830 Sept. 25—Amending Order No. 76784 dated June 14, 1951, *re* appln. of Interprovincial Pipe Line Company for approval of plan showing location of its pipe line in vicinity of Edmonton, Alta.
- 79831 Sept. 25—Amending Order No. 78587, dated March 25, 1952, *re* appln. of Interprovincial Pipe Line Company.
- 79832 Sept. 25—Amending Order No. 74921, dated July 25, 1950, *re* appln. of Interprovincial Pipe Line Company.
- 79833 Sept. 25—Authorizing the C.N.R. to operate bridge at mileage 3·7 Luscar Subdivision, Alta.
- 79834 Sept. 25—Authorizing the C.N.R. to operate bridge at mileage 24·4 Foothills Subdivision, Alta.
- 79835 Sept. 25—Authorizing the C.N.R. to operate bridges at mileages 9·6 and 12·3 Mountain Park Subdivision, Alta.
- 79836 Sept. 25—Approving under Maritime Freight Rates Act tolls published in Tariffs filed by the C.N.R. under Section 3.
- 79837 Sept. 25—Amending Order No. 79704, dated Sept. 6, 1952, *re* accident at C.N.R. crossing near Baie St. Paul Station, Quebec.
- 79838 Sept. 25—Authorizing the C.N.R. to make changes to signals at Totzke, Saskatchewan.
- 79839 Sept. 25—Permitting the removal of slow order at C.N.R. crossing second west of Sudbury Junction, Ontario.
- 79840 Sept. 25—Requiring the Great Northern Railway Company to install protection at Sperling Avenue crossing, Mun. of Burnaby, B.C.
- 79841 Sept. 25—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79842 Sept. 25—Approving operation of C.N.R. trains over spur serving the British Leaf Tobacco Company, Limited, Chatham, Ontario.
- 79843 Sept. 25—Approving plan showing protection as installed at 116th Street, north of 104th Avenue, Edmonton, Alta. (C.N.R.)
- 79844 Sept. 25—Amending Order No. 78309 dated Feb. 16, 1952, *re* appln. of Interprovincial Pipe Line Company.
- 79845 Sept. 25—Authorizing the C.N.R. to make changes to signals at diamond crossing of The Abitibi Power and Paper Company at Stimson, Ontario.
- 79846 Sept. 25—Approving plan showing protection as installed at crossing of C.N.R. and Mill Street, Acton, Ontario.
- 79847 Sept. 26—Approving plan showing location of Trans Mountain Oil Pipe Line Company pipe line within unorganized territory of the New Westminster District, Province of B.C.
- 79848 Sept. 26—Authorizing the C.N.R. to operate their trains through the interlocking for the cross-over located at mileage 3·92 Mount Royal Subdivision.
- 79849 Sept. 27—Authorizing the C.N.R. to make signal changes to the Queen's Wharf Interlocker, Toronto Terminals, Ontario.
- 79850 Sept. 27—Restricting the speed of trains over C.N.R. crossing of Provencher Avenue, west of Station at St. Boniface, Man.
- 79851 Sept. 27—Restricting the speed of trains over C.N.R. crossing west of Montague Junction, P.E.I.
- 79852 Sept. 27—Approving signal protection proposed to be installed by the Quebec North Shore & Labrador Railway Company from the yard limit at Seven Islands, Quebec.
- 79853 Sept. 27—Approving proposed signal governing eastward train movements into Moose Jaw, Saskatchewan, etc.
- 79854 Sept. 27—Restricting the speed of trains over C.N.R. crossing at mileage 3·42 Montague Subdivision, P.E.I.
- 79855 Sept. 27—Restricting the speed of trains over C.N.R. crossing at mileage 4·40 Montague Subdivision, P.E.I.
- 79856 Sept. 27—Restricting the speed of trains over C.N.R. crossing at mileage 1·12 Montague Subdivision, P.E.I.
- 79857 Sept. 27—Restricting the speed of trains over C.N.R. crossing at mileage 4·70 Montague Subdivision, P.E.I.
- 79858 Sept. 29—Authorizing the C.N.R. to operate the bridges at mileages 26·0, 28·5, 30·9 and 32·5 Turnberry Subdivision, Manitoba.
- 79859 Sept. 29—Restricting the speed of trains at C.N.R. crossing at 107th Avenue, near 121st Street, Edmonton, Alta.
- 79860 Sept. 29—Approving proposed location of storage tanks, etc. of North Star Oil Limited, near C.N.R. tracks at Brock, Sask.
- 79861 Sept. 29—Approving proposed location of storage tank of Imperial Oil Limited, near C.N.R. tracks at Truro, N.S.

- 79862 Sept. 29—Approving proposed location of new pipe lines of Shell Oil Company, Limited, near C.N.R. tracks at Victoriaville, Quebec.
- 79863 Sept. 29—Authorizing the Manitoba Dept. of Public Works to construct Highway No. 21 across the C.P.R. at mileage 32·75 Estevan Subdivision, Manitoba.
- 79864 Sept. 29—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Boundary Subdivision.
- 79865 Sept. 29—Authorizing the C.N.R. to operate the bridge at mileage 10·2 Meskanaw Subdivision, Saskatchewan.
- 79866 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its company pipe line across the North Thompson River, Kamloops Division, Yale District, Province of B.C.
- 79867 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its pipe line across the Pembina River, Alta.
- 79868 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its company pipe line across the North Thompson River, B.C.
- 79869 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its company pipe line across the McLeod River, Alta.
- 79870 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its company pipe line across the North Thompson River, B.C.
- 79871 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct pipe line across Athabaska River, Province of Alta.
- 79872 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its line across the North Saskatchewan River, Alta.
- 79873 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its line across Wolf Creek, Alta.
- 79874 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its line across the Canoe River, B.C.
- 79875 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its line across the Blue River, B.C.
- 79876 Sept. 29—Authorizing the Trans Mountain Oil Pipe Line Company to construct its pipe line across Lemieux Creek, B.C.
- 79877 Sept. 29—Permitting the removal of slow order at C.N.R. crossing at mileage 1·80 Middleton Subdivision, N.S.
- 79878 Sept. 29—Permitting the removal of slow order at C.P.R. crossing west of station at Agincourt, Ontario.
- 79879 Sept. 29—Permitting the removal of slow order at the Algoma Central & Hudson Bay Railway Company crossing north of station at Wyborn, Ontario.
- 79880 Sept. 29—Requiring the Sydney & Louisburg Railway Company to install protection at Victoria Road crossing, Sydney, N.S.
- 79881 Sept. 29—Amending Order No. 67811, dated June 20, 1951, *re* location of crude oil loading facilities at Bluesky, Alta. (N.A. Rly Co.)
- 79882 Sept. 29—Authorizing the County of Halton, Ontario, to make changes to approaches at crossing of Guelph Line Road & C.N.R., Township of Nelson, Ontario.
- 79883 Sept. 29—Requiring the C.N.R. to install protection at crossing of St. Simon Road near Ste. Madeleine, Quebec.
- 79884 Sept. 29—Restricting the speed of trains at C.N.R. crossing in Village of Parent, Quebec.
- 79885 Sept. 29—Relieving the C.N.R. from erecting fences between mileages 0·00 and 59·32 Conquest Subdivision, Saskatchewan.
- 79886 Oct. 2—Authorizing The Bell Telephone to construct its line under certain highways in Township of Chatham, Ontario.
- 79887 Oct. 2—Requiring the C.P.R. to re-establish the conduit as it existed prior to it being filled along its line at St. Francois de Sales Station, Quebec.
- 79888 Oct. 2—Approving proposed location of pipe lines, etc., of the Canadian Oil Companies Limited near the C.N.R. tracks at London, Ontario.
- 79889 Oct. 2—Authorizing the C.P.R. to construct an extension to private siding across Russell Street, Victoria, B.C.
- 79890 Oct. 2—Authorizing the Village of Porcupine Plain, Saskatchewan, to construct Windsor Avenue across the C.N.R.
- 79891 Oct. 2—Approving proposed location of storage tanks, etc. of Imperial Oil Limited, near C.P.R. tracks at Fort Macleod, Alta.
- 79892 Oct. 2—Authorizing the B.C. Department of Public Works to construct highway over the C.P.R. at mileage 2·64 Slocan Subdivision.
- 79893 Oct. 2—Rescinding Order No. 72034, dated February 21, 1949, *re* crossing of Downie Street, Stratford, Ontario, by the C.N.R.
- 79894 Oct. 3—Approving proposed location of storage tanks, etc., of the McColl-Frontenac Oil Company Limited near tracks of T.H. & B. Railway Company at Hamilton, Ontario.
- 79895 Oct. 3—Requiring the C.N.R. to install protection at crossing of Tecumseh Road, Tecumseh, Ontario.

- 79896 Oct. 3—Approving Supplement to Service Station contract between The Bell Telephone Company and The East Grey Telephone Company Limited.
- 79897 Oct. 3—Permitting the removal of slow order at C.P.R. crossing of Cremazie Blvd., Montreal, P.Q.
- 79898 Oct. 3—Approving Appendix to Traffic Agreement between The Bell Telephone Company and The Welland County Telephone Company Limited.
- 79899 Oct. 3—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Bobcaygeon Rural Telephone Company.
- 79900 Oct. 3—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the D.A. Railway Company under Section 9.
- 79901 Oct. 3—Approving operation of C.P.R. trains over siding serving the Ranger Brewing Company Limited, Kitchener, Ontario.
- 79902 Oct. 3—Authorizing the C.N.R. to improve the sight lines at mileage 97·67 Cayuga Subdivision, Ontario.
- 79903 Oct. 3—Dismissing Application of R. G. Robineault and others for establishment by the N.Y.C. of commutation fares between Valleyfield and Montreal, P.Q.
- 79904 Oct. 3—Requiring C.N.R. to install protection at St. Simon Road near Station at Ste. Madeleine, P.Q.
- 79905 Oct. 4—Approving proposed location of storage tanks, etc., of E. A. Jakubowsky near N.A. Railways at Girouxville, Alta.
- 79906 Oct. 6—Permitting the removal of slow order at crossing of Montreal & Southern Counties Railway and Cowie Street, Granby, P.Q.
- 79907 Oct. 6—Approving proposed location of pipe line, etc., of Imperial Oil Limited, near C.P.R. tracks at Maniwaki, P.Q.
- 79908 Oct. 6—Authorizing the C.N.R. to use the bridges at mileage 12·5 and mileage 39·5 Fort Frances Subdivision, Ontario.
- 79909 Oct. 6—Authorizing the C.N.R. to remove the seasonal agency at St. Louis du Ha Ha, P.Q.
- 79910 Oct. 6—Authorizing the N.B. Department of Public Works to construct a highway across the C.N.R. at mileage 5·68 Pointe du Chene Subdivision.
- 79911 Oct. 6—Authorizing the C.N.R. to construct dolphins in Okanagan Lake, B.C.
- 79912 Oct. 6—Authorizing the C.P.R. to construct an industrial spur track at grade across Highway No. 68 to serve its coal storage yard at Turner, Ontario.
- 79913 Oct. 7—Authorizing Husky Oil & Refining Limited to load crude oil from tank trucks to tank cars at Loverna, Saskatchewan, till October 31, 1952. (C.N.R.)
- 79914 Oct. 7—Extending time within which protection is to be installed at C.P.R. crossing of Regent Street, Sudbury, Ontario.
- 79915 Oct. 7—Permitting the removal of slow order at C.P.R. crossing first east of station at Roblindale, Ontario.
- 79916 Oct. 7—Permitting the removal of slow order at C.P.R. crossing near station at Upper Kent, N.B.
- 79917 Oct. 7—Approving plan showing protection at Albert Street crossing, Alliston, Ontario.
- 79918 Oct. 7—Approving plan showing signals installed at crossing of C.P.R. and Victoria Street, Alliston, Ontario.
- 79919 Oct. 7—Amending Order No. 54662, dated August 6, 1927, *re* protection at crossing of Heatley Avenue by the C.P.R. and National Harbours Board tracks Vancouver, B.C.
- 79920 Oct. 7—Approving proposed location of storage tanks, etc. of McColl-Frontenac Oil Co. Limited, near C.N.R. tracks at Nipigon, Ontario.
- 79921 Oct. 7—Approving plan showing location of Trans-Northern Pipe Line Company pipe line, Parish of Riviere des Prairies, P.Q.
- 79922 Oct. 8—Permitting the removal of slow order at C.N.R. crossing near station at Grandora, Saskatchewan.
- 79923 Oct. 8—Approving proposed location of pipe lines, etc. of Imperial Oil Limited near N.A. Railway Company tracks at Barrhead, Alta.
- 79924 Oct. 8—Authorizing the Alberta Department of Highways to construct an overhead crossing over C.P.R. at mileage 2·89 Red Deer Subdivision, Alta.
- 79925 Oct. 8—Approving operation of C.P.R. trains over two private sidings serving John Inglis Company Limited, Township of Scarborough, Ontario.
- 79926 Oct. 8—Authorizing the B.C. Department of Public Works to construct the highway across the Great Northern Railway Company at mileage 160·38 Nelson & Fort Sheppard Line.
- 79927 Oct. 7—Permitting the removal of slow order at Great Northern Railway Company crossing of 13th Avenue, Vancouver, B.C.
- 79928 Oct. 8—Permitting the removal of slow order at C.P.R. crossing near Elwood, Ontario.
- 79929 Oct. 8—Approving proposed location of storage tank of Imperial Oil Limited, near C.N.R. tracks at Gaspe, P.Q.

- 79930 Oct. 8—Approving proposed location of storage tank of Imperial Oil Limited, near C.N.R. tracks at Chandler, P.Q.
- 79931 Oct. 8—Authorizing the Trans-Northern Pipe Line Company to carry its company pipe line across certain highways and the C.P.R. Townships of Osnabruk, Ontario.
- 79932 Oct. 9—Approving proposed location of storage tank, etc., of the Shell Oil Company near tracks of C.P.R. at Little Current, Ontario.
- 79933 Oct. 9—Requiring the C.P.R. to install protection at crossing of highway No. 27, Mun. of Eaton, P.Q.
- 79934 Oct. 9—Restricting the speed of C.N.R. trains at Egerton Street crossing, London, Ontario.
- 79935 Oct. 9—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking plant at east end of C.N.-C.P. joint section at Current Junction, Ontario.
- 79936 Oct. 9—Authorizing the C.N.R. to operate their trains through the interlocking of their railways at Chatham Junction, Ontario.
- 79937 Oct. 9—Approving proposed location of storage tanks, etc. of Canada Cement Company Limited, near C.N.R. tracks at Fort Whyte, Manitoba.
- 79938 Oct. 9—Approving under Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 79939 Oct. 9—Permitting the removal of slow order at C.N.R. crossing of Ashburn Lake Road, N.B., mileage 84.2 Sussex Subdivision.
- 79940 Oct. 9—Restricting the speed of trains at C.N.R. crossing first west of station at Drummondville, P.Q.
- 79941 Oct. 9—Authorizing the C.N.R. to use and operate bridge over Smiths Creek, Ontario, mileage 16.1 Newton Subdivision.
- 79942 Oct. 9—Requiring the C.N.R. to install protection at crossing of Highway No. 2 A, Parish of St. Philippe de Neri, P.Q.
- 79943 Oct. 9—Authorizing the C.P.R. to construct a private siding to serve Riverlake Oils Limited across Arthur Street, Fort William, Ontario.
- 79944 Oct. 9—Restricting the speed of C.P.R. trains over first crossing east of station, Portage la Prairie, Manitoba.
- 79945 Oct. 9—Permitting the removal of speed limitation at C.P.R. crossing, mileage 40.65 Okanagan Subdivision, B.C.
- 79946 Oct. 9—Approving proposed location of storage tank, etc., of Imperial Oil Limited near tracks of the Northern Alberta Railways Company at Nampa, Alta.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, November 15, 1952

No. 16

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Westcoast Transmission Company Limited under Sections 11 and 12 and other relevant Sections of the Pipe Lines Act, for an Order granting leave to Westcoast Transmission Company Limited to construct a pipe line for the transportation of natural gas from a point in the vicinity of the Pouce Coupe area in the Province of Alberta, through the Towns of Dawson Creek and Prince George in the Province of British Columbia, to a point in the vicinity of the City of Vancouver in the Province of British Columbia, including a branch line from a point in the vicinity of the Town of Abbotsford to a point on the International boundary in the vicinity of the Town of Huntingdon.

File No. 45371-3-5

Before:

HON. MR. JUSTICE JOHN D. KEARNEY, *Chief Commissioner.*
ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
FRANK M. MACPHERSON, *Commissioner.*

Appearances:

HON. J. W. de B. FARRIS, Q.C., DUNCAN MACTAVISH, Q.C., D. P. McDONALD, Q.C., and R. C. MERRIAM, for Westcoast Transmission Co. Ltd.
JOHN J. CONNOLLY, Q.C., for Alberta Natural Gas Company.
FRANK B. COMMON, Jr., M. E. CORLETT and A. M. LAIDLAW, for Champion Pipeline Corporation Ltd.
S. BRUCE SMITH, Q.C., and CUTHBERT SCOTT, Q.C., for Prairie Transmission Lines Ltd.
J. ROSS TOLMIE, for Trans-Canada Pipe Lines Limited.
HON. L. MAYNARD, Q.C., and J. J. FRAWLEY, Q.C., for the Province of Alberta.
H. ALAN MACLEAN, Q.C., for the Province of British Columbia.
DUNCAN MCILRAITH, Q.C., and R. MARTLAND, Q.C., for Western Pipe Lines.

JUDGMENT

KEARNEY, J., Chief Commissioner:

In our Judgment herein, given on June 14, 1952, we said that we intended to procure, by means of our own engineering staff and the geological staff made available to us by the Department of Mines and Technical Surveys, an independent estimate of the natural gas reserves in the Peace River district and such other districts as we might determine, for the purpose of assisting us in appraising the estimates submitted by Westcoast Transmission Company Limited, hereinafter referred to as "Westcoast", of reserves available for transmission through its proposed pipe line.

We have procured the independent estimate above referred to. It has been made by Dr. G. S. Hume, B.A., Ph.D., O.B.E., Director General of Scientific Surveys, of Canada's Department of Mines and Technical Surveys, and Mr. A. Ignatieff, one of the senior engineers of that Department, who are pre-eminent in their profession, and whose knowledge of the geology of Western Canada and experience in making estimates of natural gas reserves is widely recognized.

Their report, hereinafter referred to as the "Report", on their study of the natural gas reserves of the Peace River area of British Columbia and Alberta, consisting of 92 pages in addition to maps, is on file with the Board.

The study was completed as of August 31, 1952, and the compilation of natural gas reserves in the Report are as of that date. I shall refer later herein to further information received by us subsequent thereto.

The Peace River area, as referred to in the Report, includes the area from Township 69 to Township 89 and from Range 16 West of 5th Meridian in Alberta to Range 20 West of 6th Meridian in British Columbia. The area in Alberta is the district designated in the permit granted to Westcoast by The Petroleum and Natural Gas Conservation Board for removal of gas from Alberta.

It would serve no useful purpose to repeat here to any considerable extent the vast amount of technical and other data contained in the Report but as it is an independent report made since the June hearing I will refer to the conclusions and make a few comments.

Dr. Hume and his associate concluded that the proven and probable reserves of natural gas in situ in the Peace River area amount to 2,506 billion cubic feet, of which 1,585 billion are in British Columbia and 921 billion in Alberta.

The Report points out that a distinction has been made between natural gas fields which have sufficient wells to outline their areal extent, even although only in a general way, and those areas which have been shown by one or at most two widely separated wells to have gas prospects but in which no development wells have been drilled; also that, generally, sufficient data are not available from one well alone to provide a reliable estimate, but where a number of such areas are appraised on a reasonable acreage for each a deficiency under the estimate for one area is likely to be counter-balanced by a surplus over the estimate in another area, and a reasonable over-all appraisal is possible.

The reserves of fields in which two or more gas wells have been drilled have been computed on the basis of the results obtained and the structural conditions as presently known, and no appraisal of gas reserves has been made for areas with one productive well except for three areas where special conditions exist.

In making the computations the Report emphasizes the various degrees of precision of the estimates for different areas according to the information available from geological and geophysical surveys and from the interpretation of well data in respect to the size of the gas reservoirs. The Board realizes that the engineering data available is much more complete in respect to some wells than for others in which measurements valuable in making an appraisal of reserves were not taken at the time when such data could have been obtained. It, therefore, is a matter of judgment based on experience as to what proportion

of the reserves should be placed in each of the categories "proven", "probable" and "possible", but the division between "proven" and "probable" is much more arbitrary than the division between "probable" and "possible". This follows from the fact that the "proven" and "probable" reserves are, in conjunction with other factors, based on drilling data, whereas the "possible" reserves not evaluated quantitatively are based on the structure as interpreted from geological and geophysical surveys assuming that similar conditions of porosity and permeability within the reservoir rocks, as determined from cores of drilled wells, will be continuous into the more distant untested areas. The highest degree of precision in making "proven" reserve estimates would be based on production experience in a field since the knowledge of the reservoir characteristics enable a much more accurate estimate to be made both on a pressure decline and a volumetric basis. The Peace River area is so new, however, in relation to gas developments, that there is no production experience and hence all computations of reserves must be based on the volumetric method of measurements in which geological interpretation plays an important part. The division between proven and probable, therefore becomes largely a matter of judgment in assessing the degree of importance of each factor in its influence on the category of the reserve estimate.

We have noted the optimism expressed in regard to the prospects for much larger reserves as development proceeds. Since August 31, the date as of which the Report was made, a new well in the Fort St. John area has been tested and its large flow shows that the optimism was justified. Also a new well in the Belloy area of Alberta, drilled since the Report was completed, has added substantial reserves to that field. Other information has also come to us, and is on file, of production tests and flows of gas which confirms estimates in the Report.

In a few areas, where the information is not too precise but where the prospects are good, the reserves have been considered as "possible". Additional and more accurate data would enable the "probable" and "proven" reserves to be substantially increased from the reserves that had previously been considered as possible. All these circumstances, therefore, point to the estimate of 2,506 billion cubic feet, of which 1,585 billion are in British Columbia and 921 billion are in Alberta, as being in our opinion a reasonable estimate and one which, based on experience in the last few months, may become larger within a few years.

The above estimates are for natural gas in situ, however, and all of this is not marketable reserves, as allowances for reservoir and surface losses must be made. The reserves in Alberta that could be drawn upon without marketing oil comprise the gas from all fields with the exception of Rycroft. In addition most of the reserves in the Fort St. John area in British Columbia are also available provided that disposal could be made of the light products that would be stripped from the gas prior to pipe line admission. In view of the value of these products, which makes the production of these wells much more profitable than dry gas wells, there is good reason to assume that the necessary processing arrangements for marketing would be quickly built as it is recognized that the difficulty of producing these products is the disposal of the gas which their production involves. The quantity of gas available for the proposed pipe line will depend on the production characteristics of each reservoir from which the gas is drawn. At this stage of development we consider that a reasonable over-all estimate of the recoverable gas is 75 per cent of the gas in situ.

We have considered and appraised all the evidence and estimates, and it is our opinion, as above stated, that the Hume-Ignatieff estimate of reserves is a reasonable one. We also consider that such an estimated reserve is sufficiently great to warrant the granting of leave to construct the line.

It is significant that when Westcoast first applied to this Board for leave to construct a pipe line it was to reserves in Alberta that the Company looked for its supply of gas, and the Company at that time lacked the necessary permit to remove gas from that province. The situation has changed materially since that date in several respects. The permit has now been obtained from the Alberta authorities for removal of gas from the Peace River area. In addition, the company will be able to draw on the gas reserves that have been discovered in the British Columbia portion of the Peace River area. The estimated reserve in the latter portion is even greater than in the Alberta portion, and as pointed out in the Report the most impressive results in the whole Peace River area are being furnished by the drilling in the St. John area. The reserve presently indicated there is large, yet the present results have all been achieved since March, 1952. This is a striking indication of how rapidly gas reserves in new fields in Alberta and British Columbia are being discovered and enlarged.

Moreover, in British Columbia there are no provincial restrictions on the export of gas, nor any restrictions on the taking of gas from any area of the province nor an equivalent of The Petroleum and Natural Gas Conservation Board of Alberta.

The government of British Columbia, through its Counsel, stated to the Board at the June hearing, that great economic benefits would accrue to British Columbia by development of its oil and gas reserves and that it strongly supported the Westcoast application and urged the immediate construction of the pipe line. It is also evident that the government has the support of the Legislature of British Columbia in respect of this policy because the Legislature passed an unanimous resolution urging the adoption of the route through the Pine Pass, which is proposed by Westcoast, to take gas from the Peace River area.

Thus Westcoast can now draw on reserves in British Columbia as well as in Alberta.

The permit granted to Westcoast to remove gas from Alberta is for a term of twenty-two years and the amount of gas authorized to be removed during the first five years is 210 billion standard cubic feet. This represented the amount of deliverable gas which The Petroleum and Natural Gas Conservation Board found to be surplus to the requirements of Alberta as at December 31, 1951. However, at any time the permittee can apply under Section 10 of the Gas Resources Preservation Act for an increase in this initial allotment.

I was somewhat concerned that in respect of surplus gas the possible needs of Alberta as a whole were taken into account rather than only local needs in the Peace River district. The importance or otherwise of the foregoing aspect of the permit granted to the Applicant I considered depended a good deal on the interpretation which the Alberta Government itself placed upon it. On communicating my concern to the Hon. Mr. Maynard, Attorney General of Alberta, who appeared in the present case, he readily agreed to deal with the question and recently wrote me in part as follows:

"We feel that this is more a theoretical question than a practical one in that, as already stated, the fact that the Company was issued a permit for a period of 22 years presupposes that a supply of surplus gas adequate to make the operation of the line economically feasible over the 22-year period would be made available as the increased gas reserves of the area permit. When the Petroleum and Natural Gas Conservation Board recommended that gas be removed from the Peace River area rather than from any other part of the Province, it was because gas in the Peace River area not only was surplus to Alberta's requirements and the requirements of the area but was far removed from southern and central Alberta and therefore would not normally be used to augment the reserves retained for the rest of the Province. In its report, the Board stated ' . . . The Peace River area is

remote from other settled areas in the Province and does not lend itself readily to an integrated province-wide gathering and distributing scheme.' During the present year, substantial additional reserves have been established in central and southern Alberta with the result that it would now appear that the gas resources of the Peace River district will not be required to augment the supply necessary for present and future provincial consumption outside the Peace River area itself. Under these circumstances, as further reserves are established in the Peace River area additional surplus gas can and will be made available to Westcoast Transmission Company under the terms of the Alberta Gas Resources Preservation Act."

Hon. Mr. Maynard also explained in his letter that the amount of 210 billion cubic feet specified in the permit is but a minimum initial allotment.

The Peace River area I consider is also assuming increasing importance as an oil-bearing as well as a gas-bearing area, and if the gas is enabled to reach the markets one of the results will undoubtedly be further development programs in respect of both gas and oil in that area, with the possibility that additional gas reserves will be discovered.

In our June 14 Judgment we said that if and when the Board decides that the gas reserves are sufficient an Order would issue granting Westcoast leave to construct the proposed pipe line. Taking into account the relevant factors, including the capacity of the proposed pipe line and the manner in which gas supply is to be graduated and the markets to be serviced and in view of our present finding as to the reserves, an Order will issue authorizing the construction of the pipe line, construction to be completed before October 31, 1955.

JOHN D. KEARNEY

OCTOBER 11, 1952.

I concur:

A. SYLVESTRE.

I concur:

F. M. MACPHERSON.

ORDER No. 79957

In the matter of the application of the Westcoast Transmission Company Limited under Sections 11 and 12 and other relevant Sections of the Pipe Lines Act, for an Order granting leave to Westcoast Transmission Company Limited to construct a pipe line for the transportation of natural gas from a point in the vicinity of the Pouce Coupe area in the Province of Alberta, through the Towns of Dawson Creek and Prince George in the Province of British Columbia, to a point in the vicinity of the City of Vancouver in the Province of British Columbia, including a branch line from a point in the vicinity of the Town of Abbotsford to a point on the International boundary in the vicinity of the Town of Huntingdon:

File No. 45371-3-5

SATURDAY, the 11th day of October, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the application at a sittings of the Board held in Ottawa on June 11, 12, 13 and 14, 1952, in the presence of Counsel for the Westcoast Transmission Company Limited, Alberta Natural Gas Company, Champion Pipeline Corporation Limited, Prairie Transmission Lines Limited, Trans-Canada Pipe Lines Limited, the Province of Alberta, the Province of British Columbia and Western Pipe Lines—

It is ordered that leave be, and it is hereby, granted to the Westcoast Transmission Company Limited to construct a pipe line consisting of one or more lines of pipe for the transportation of natural gas from a point in the vicinity of the Pouce Coupe area in the Province of Alberta, through the Towns of Dawson Creek and Prince George in the Province of British Columbia, to a point in the vicinity of the City of Vancouver in the Province of British Columbia, including a branch line from a point in the vicinity of the Town of Abbotsford to a point on the International boundary in the vicinity of the Town of Huntingdon; the general location of the pipe line being as shown on the map filed with the Board under file No. 45371-3-5; the said pipe line to be constructed and completed on or before the 31st day of October, 1955.

JOHN D. KEARNEY,
Chief Commissioner.

In the matter of the application of the Canadian Used Textile Bag Dealers' Association for relief against certain provisions in Canadian Freight Classification No. 19 with respect to used and/or processed burlap or cotton bags as in the said application set out.

File No. 33365-147

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

REUBEN SPECTOR, for Canadian Used Textile Bag Dealers' Association.

A. H. HART, for the Canadian Freight Association.

HEARD at Ottawa, on September 15, 1952.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

On January 8, 1951, application was received from the Canadian Used Textile Bag Dealers' Association, on behalf of its members, hereinafter referred to as the "Applicant", concerning the present freight classification ratings applicable on used and processed bags. The application was listed for hearing in Montreal on March 10, 1952, but by agreement between the Applicant and the Canadian Freight Association, hereinafter referred to as the "Respondent", the hearing was postponed, *sine die*, pending result of negotiations between the interested parties towards a settlement, failing which the matter was to be referred back to the Board. On May 1, 1952, the Board received a request from the Applicant that the matter be again listed for hearing. Accordingly the matter was set down for hearing on June 25, 1952, in Montreal. It was again postponed at the request of the Applicant and was finally heard at Ottawa, Ont., on September 15, 1952.

The Applicant alleges that the present freight classification ratings on used and processed burlap and cotton bags are discriminatory, and requests the Board to prescribe a fourth class less than carload rating and a sixth class carload rating thereon.

The Applicant is in the business of collecting, reconditioning and selling used bags as containers. It is stated that processed bags are used bags which are put through a vacuum cleaning process to remove the residue of the original contents, but despite this cleaning process particles of the commodity carried in the original bag adhere to the fibres of the woven cloth. The Applicant further states that used bags are accumulated at strategic centres throughout Canada and then forwarded to the various dealers' processing plants for reconditioning purposes, following which they are disposed of to the trade.

The ratings which presently govern the Applicant's shipments of used and processed bags are as per Items 2, 7, 10 and 11, page 51 of Canadian Freight Classification No. 19, C.T.C. No. 983, namely:—

BAGS AND BAGGING, NEW OR OLD:	Ratings	
	L.C.L.	C.L.
<i>Bags:</i>		
Burlap, Jute or Gunny, lined or not lined, in packages ...	3	
C.L., min. wt. 30,000-lbs.		5
Cotton, Clayed or other than Clayed, in packages	2	
C.L., min. wt. 24,000-lbs.		4

The application may be briefly summarized as requesting (1) the same rating as accorded shipments of returned empty bags under the application of Rule 36 of the Classification; (2) that lower ratings be accorded used and processed bags than applicable on new bags; and (3) that both used burlap and cotton bags be subject to a fourth class less than carload rating and a sixth class carload rating.

Returned Empty Bags:

Returned empty bags are classified fourth class, actual weight, in any quantities, when they are being returned to consignors of the original filled containers. If the empty bags are in full carloads they are subject to the rating on new bags as maximum. The granting of this reduced rating is conditioned upon the railway agent satisfying himself that when filled the bags had been used in the transportation of a regular consignment and that they are being returned to consignors of the original filled bags via the same lines over which they were shipped. These conditions are provided under Rule 36 of the Classification.

The Applicant points to this lower returned empty bag rating and asserts same is discriminatory against his business in that it is impossible for the railways to properly police the returned empty bag movement and consequently the railways have been according this lower rating to shipments not entitled thereto. The Applicant asks that he be brought within the confines of Rule 36.

The Respondent states that the railways know, within a narrow percentage, that not more returned empty bags are shipped out than are received in the original filled bags and the Respondent further states that the railways have always taken the position that the lower ratings granted on returned empty containers have been a voluntary concession on their part and does not constitute unjust discrimination under the meaning of the Railway Act.

Nothing has been placed before the Board indicating any specific false representations in respect to shipments of returned empty bags, and the Board is of the opinion that the railways have adequate means at their disposal of policing the movement of all returned empty containers under the application of the said Rule 36. It may be here pointed out that the Board has by its General Order No. 200, dated July 26, 1917, provided that any person violating Section 400-1 (now 428-1) of the Railway Act shall in addition to the regular toll be liable to pay the company a further toll of fifty per centum of the regular charge. This provision has been carried into the Freight Classification under Rule 18.

According to the Board's records, the fourth class rating on returned empty bags under the aforementioned arrangement has been in effect for at least 50 years. In the revision of the Classification in 1925 by a special committee comprised of representatives of the railways and industry, it had been the railways' original intention at that time to cancel the lower ratings provided on all returned empty containers. This proposition, however, met with considerable objection from the trade and, upon agreement between representatives of the railways and shippers, the lower ratings were allowed to continue.

The Board, over a long period of time, has dealt with numerous applications alleging unjust discriminations. Its rulings and interpretations have been extensively set out in the Judgment concerning "Rates on Grain and Grain Products from the Prairie Provinces to British Columbia", Volume 24 of Board's

Judgments, Orders, Regulations and Rulings, at page 344. The following extracts therefrom may serve to illustrate the principles under which the Board has dealt with such matters:

"One criterion of unjust discrimination is whether the district or individual alleged to be discriminated in favour of has profited at the expense of the locality against which it is alleged the discrimination has taken place."

. . . .

"In dealing with the question of discrimination, the matter of detriment, if any, to which the Applicant is subjected by the alleged unjust discrimination or undue preference, must be considered. Difference in rates is discrimination; but the prohibitions of the Railway Act in regard to discrimination are prohibitions of *unjust discrimination* or *undue preference*, and the question is whether the discrimination amounts to an unjust discrimination or undue preference."

In *Kelowna Board of Trade v. C.P.R.*, 15 C.R.C., p. 441, the Board also said:—

"A claim of unjust discrimination cannot be supported when the same circumstances and conditions do not and cannot exist."

and in *Spanish River Pulp and Paper Mills v. C.P.R.*, 28 C.R.C., at p. 109, the Board said:

"It was pointed out that mere allegations of difference in rate were not conclusive as to the existence of unjust discrimination or undue preference."

We are unable to accept as evidence of unjust discrimination the fact that the rating on returned empty bags to the original shipper is lower than on used or processed bags. Applicants are in the business of collecting, reconditioning and selling used bags as containers and it would appear to the Board that their trade competition would be with the manufacturers of new bags, and not with shippers who are having their own containers returned for refilling purposes upon which the carriers, having received an outward haul on shippers' products, have voluntarily accorded a reduction on the returned empty containers.

Used Versus New Bags

The Applicant asserts lower ratings should be accorded used and processed bags due to the said commodities weighing approximately 25 per cent and 10 per cent, respectively, more than new bags with the consequent higher per unit transportation costs.

The Respondent objects to the establishment of different ratings on new versus used bags on the ground that it would create a precedent which would be difficult to deny on other commodities, and further states that it would be most difficult for the railways in order to prevent abuse to police all traffic subject to such dual ratings.

The rule generally followed in establishing ratings in the classification is that, on used articles, the ratings should be the same as those on like new articles, if the used articles have any value as the articles which they originally purported to be. I do not feel that the Board can require the railways to transport used bags as containers at other than the ratings applicable on the new bags, and I am not prepared at this time to lay down the principle that used articles must be treated differently from new articles.

Burlap versus Cotton Bags

The Applicant states that while the selling price of used burlap and cotton bags fluctuates, the price has been approximately equal during the past decade and asserts there is consequently no reason for maintaining differences in the classification ratings on these commodities, and requests the Board to prescribe a fourth class less than carload rating and a sixth class carload rating thereon.

The Respondent states that the higher ratings established in 1925 on cotton bags was due to the higher valuation of the commodity at that time and that if the present valuation of these two commodities is approximately equal, the ratings on burlap bags should be increased to the level of the cotton bags rather than reduced as requested by the Applicant. The Respondent further states that, to accord uniform ratings on the said commodities would necessitate granting similar treatment to new bags and also on the raw material of bagging, with the possibility of disturbance in the ratings on other related commodities.

There would appear to be some merit to the Respondent's argument that to accord used burlap and cotton bags the uniform ratings requested by the Applicant would necessitate according similar treatment to new bags and also the raw material of bagging, as it is a well recognized principle of classification that the manufactured article should not be rated lower than the raw material from which it is made.

A review of the former Classifications on file with the Board indicates that the present ratings on new and old burlap and cotton bags have been in effect for more than 25 years. It not infrequently happens that manufactured commodities undergo marked and permanent changes in their value and due to such developments classification ratings which were once on approximately the correct basis may become distinctly too high or too low.

There has been no complaint placed before the Board concerning the present ratings on new bags and bagging and to grant the ratings on used burlap and cotton bags as applied for would necessitate a revision of the ratings on the former commodities, concerning which no information has been placed before the Board.

Upon consideration of all that was submitted, I do not consider that the present ratings are unreasonable, or that unjust discrimination exists with respect thereto and the application must be, and it is hereby, dismissed.

A. SYLVESTRE.

OTTAWA, October 16, 1952.

I concur:

H. B. CHASE.

Complaint of J. J. Seguin Company Limited, re Allowances for Stakes used in loading Carload Shipments of Lumber and Forest Products in open top cars.

File No. 8799.1.

JUDGMENT

By the Board:

This matter has been considered and dealt with on the written submissions of J. J. Seguin Company Limited, hereinafter referred to as the "Applicant" and the Canadian National Railways and Canadian Pacific Railway Company, hereinafter referred to as the "Respondents". Both the Applicant and the Respondents have signified their desire that we decide the issues upon such written submissions.

The Applicant alleges that the present allowance of 500 pounds per car for stakes used to hold shipments of lumber and forest products on flat and gondola cars is insufficient in respect to movements between points in Eastern Canada, and also alleges it is unreasonable that shippers be required to furnish such stakes at their own expense. The Applicant requests that the weight allowance for stakes be not less than 200 pounds per pair of stakes used, and also that rail carriers be required to make an allowance to the shippers for the cost of the stakes furnished. Retroactive adjustment of charges is also sought by Applicant from the date of Board's Order 13326, namely, March 27, 1911, of alleged overcharges and expenses incurred in furnishing stakes.

Weight Allowance

The railways in Canada have had in effect since 1911, uniform tariff provisions granting an allowance of 500 pounds for stakes used on flat or gondola cars on traffic moving within Canada. This allowance not only applies to lumber shipment but to numerous other commodities and was established by the carriers in compliance with Board's Order 13326 of March 27, 1911, reported at page 25, Volume 1 of the Board's Judgments, Orders, Regulations and Rulings.

In 1946 the railways departed from this uniform allowance and accorded a greater allowance in respect to lumber traffic moving between points in British Columbia and from British Columbia points to destinations in Eastern and Western Canada—the tariff provisions for which read:—

"On carload shipments of lumber and other articles for which rates are named in this tariff as amended, loaded on flat or gondola cars, equipped at shipper's expense with Bands, Standards, Strips, Stakes or Supports, including Wire, a deduction of 200 pounds shall be made for each pair of full length stakes (*See Note 1*) used (the shipper to certify on shipping order or bill of lading the total number of pairs of full length stakes applied)

Note 1.—Full length stakes are stakes that extend from the stake pocket or car floor to a sufficient height above the top of the load so as to permit attachment thereto of tie boards or other suitable tie material."

The Respondents state the United States Pacific Coast carriers had conducted an exhaustive study to determine the minimum allowance necessary to meet the requirements of the present rules governing the loading of forest products on open top cars as prescribed by the Association of American Railroads, and as a result of this study an allowance of 200 pounds per pair of stakes used was arrived at and was accordingly made applicable on lumber traffic moving from points on the Pacific Coast to destinations in Eastern Canada and the Eastern and Mid-Western United States on August 1, 1946. The Respondents further state that due to competitive conditions, Canadian

railways were compelled to observe this same weight allowance on lumber traffic moving from shipping points in British Columbia to destinations in Canada, and amended their tariffs to become effective on the same date.

The Applicant points to this voluntary allowance established by the carriers, and asserts that the lumber traffic moving from British Columbia points to destinations in Eastern Canada is no different than that moving within Eastern Canada.

The question for determination by the Board is what is a fair and reasonable weight allowance for stakes used on lumber traffic for general application in Canada?

A review of the Judgment, pursuant to which Order 13326 was issued, reported at page 15, Volume 1 of the Board's Judgments, Orders, Regulations and Rulings, indicates it was the Board's opinion at that time that as carriers were required under Section 284 of the Railway Act (present Section 312), to furnish all proper appliances accommodation and means necessary for receiving, loading, carrying, unloading and delivering traffic, the stakes as furnished by shippers should be recognized as part of the tare of the car and no freight charges should be charged for the weight thereof. Accordingly the Board prescribed under its Order 13326 a weight allowance of 500 pounds per car on traffic loaded on flat or gondola cars for general application throughout Canada.

It is observed that the application filed with the Board in the latter case was a request for reimbursement to shippers for any and all expenses incurred in equipping flat and other cars with stakes "so as to comply with the provisions of the Order of the Board No. 7599 dated July 24, 1909". This latter Order in turn required railway companies to comply with the rules and regulations approved by the Master Car Builders' Association governing the loading of lumber, logs and stone on flat and open cars.

It is the Board's understanding that the rules now governing the loading of forest products are as prescribed by the Association of American Railroads, as has been mentioned previously, and that these same rules have also been adopted to govern similar traffic in Canada. There is no question but that the size and weight-carrying capacity of open top cars operating in Canada have greatly increased since the issuance of Board's Order 13326, consequently it would not appear unreasonable to also adopt an increased weight allowance to govern on lumber traffic moving throughout Canada, thus according shippers sufficient allowance for the weight of the stakes furnished by them.

We would, therefore, adopt on carload freight shipments of lumber and forest products loaded on flat or gondola cars equipped with Bands, Standards, Strips, Stakes or Supports, including Wire, an allowance of 200 pounds for each pair of full length stakes used. An Order will issue accordingly.

Cost of Furnishing Stakes

The Applicant also contends that Board's Order 13326 not only required the railways to provide an allowance to cover the weight of the stakes used in equipping open top cars, but that the said Order also required such railways to reimburse shippers for the cost of furnishing the stakes.

A reading of the Order in question does not substantiate this contention. The Judgment in this case indicates that the question of reimbursement to shippers was fully considered by the Board at that time, but that the evidence warranted the conclusion that it was impossible to get an average which would be fairly applicable throughout Canada. The cost of stakes varies materially between shippers, localities and shipments. Any sum which would fairly recompense one shipper might prove to be wholly inadequate for another, and more than sufficient in the case of a third. With the great variety of ship-

ments and the cost of staking varying with each, no allowance could be made which would be just to all and which would not lead to discriminations and consequent injustices.

Nothing has been placed before the Board indicating any change in the aforementioned circumstances that would warrant the Board departing from the position taken in its former Judgment, consequently the present practice which requires shippers of lumber on open top cars to stake and secure the loads for safe transportation, is found not unjust or unreasonable.

Retroactive Adjustment of Charges

Applicant also requests that the Board direct the railways "to reimburse us for the freight overcharged us on 700 pounds per car—1200 less 500—and the cost of installing such extra equipment, dating from the date of Order No. 13326".

It must be here pointed out that the Board has time and again stated that its powers with respect to past transactions are limited to a declaration of what constitutes the legal tolls and that it has no powers to make a retroactive amendment of a tariff. Reductions as may be ordered by the Board apply only to future shipments when such reductions come into effect in Carriers' lawfully filed tariffs.

FINDINGS

1. Railways subject to the jurisdiction of the Board are required to establish on carload shipments of lumber and forest products loaded on flat or gondola cars equipped with Bands, Standards, Strips, Stakes or Supports, including Wire, an allowance of 200 pounds for each pair of full length stakes used.

2. Furnishing stakes by shippers to equip such cars for safe transportation is not unjust nor unreasonable.

3. The Board has no power to direct carriers to make retroactive adjustment of charges.

HUGH WARDROPE,

FRANK M. MacPHERSON,

H. B. CHASE.

OTTAWA, October 16, 1952.

ORDER No. 79977

In the matter of the application of J. J. Seguin Company Limited re allowances for stakes used in loading carload shipment of lumber and forest products in flat or gondola cars.

File No. 8799.1

THURSDAY, the 16th day of October, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the railway companies subject to the jurisdiction of the Board be, and they are hereby, required to provide on or before December 1, 1952, on carload shipments of lumber and forest products loaded on flat or gondola cars equipped with bands, standards, strips, stakes or supports, including wire, an allowance of two hundred pounds for each pair of full length stakes used, from the weight of each carload of lumber and forest products loaded on such flat or gondola cars, subject to the condition that the minimum weight applicable to the said lumber and forest products shall not be reduced by reason of the said allowance.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 80071

In the matter of the application of the McColl-Frontenac Oil Company for elimination as a party shipper from Agreed Charge Tariff C.T.C. (AC) No. 41:

File No. 40994.31

THURSDAY, the 30th day of October, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas McColl-Frontenac Oil Company Limited and Canadian National Railway Company, Canadian Pacific Railway Company and Northern Alberta Railway Company agreed to the elimination of McColl-Frontenac Oil Company Limited as a party shipper from Agreed Charge Tariff C.T.C. (AC) No. 41—

It is ordered that the Board's approval of Agreed Charge Tariff C.T.C. (AC) No. 41 in so far as its approval applied to the said Agreed Charge between McColl-Frontenac Oil Company Limited and the railways parties thereto be, and it is hereby, withdrawn as of the date of this Order.

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 79947 Oct. 9—Approving plan showing alterations in signal protection at crossing of C.P.R. and C.N.R. at Carrier, P.Q.
- 79948 Oct. 9—Approving location of storage tanks, etc., of Shell Oil Company near C.N.R. tracks at Hamilton, Ontario.
- 79949 Oct. 10—Requiring the C.N.R. to install protection at crossing, mileage 5·12 Batiscan Subdivision, Province of Quebec.
- 79950 Oct. 11—Approving Appendix to Traffic Agreement between The Bell Telephone Company and The Eastern Townships Telephone Company.
- 79951 Oct. 11—Requiring that all rail movements over C.N.R. crossing mileage 0·28 Beauharnois Subdivision, Province of Quebec, be flagged by a member of the train crew.
- 79952 Oct. 11—Requiring the C.N.R. to install protection at 118th Avenue, Edmonton, Alberta.
- 79953 Oct. 11—Approving proposed location of storage tank of Imperial Oil Limited near C.N.R. tracks at Murray Harbour, P.E.I.
- 79954 Oct. 11—Requiring the C.N.R. to install protection at crossing of Highway No. 6 at Ste. Marie de Sayabec, P.Q.
- 79955 Oct. 11—Approving Supplement to Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de Piopolis.
- 79956 Oct. 11—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de Québec.
- 79957 Oct. 11—Authorizing the Westcoast Transmission Company Limited to construct a pipe line for gas from Pouce Coupe area, Alberta, to Vancouver.
- 79958 Oct. 11—Approving Supplement to Traffic Agreement between The Bell Telephone Company and Martintown Telephones.
- 79959 Oct. 11—Approving Traffic Agreement between The Bell Telephone Company and Martintown Telephone System.
- 79960 Oct. 11—Authorizing the Department of Defence Production of Canada to relocate and widen the highway to the Princess Louise Wharf from Henderson Street across the C.N.R., Quebec, P.Q.
- 79961 Oct. 11—Authorizing the Alberta Department of Highways to widen the highway where it crosses the company pipe line of Interprovincial Pipe Line Company between SE-4-32-52-23 W4M and SW-4-33-52-23 W4M.
- 79962 Oct. 11—Approving plan showing interlocking at crossing of C.P.R. and C.N.R. at Alliston, Ontario.
- 79963 Oct. 11—Approving plan showing location of Trans Mountain Oil Pipe Line Company Pipe Line Clearwater to Chinook Cove, B.C.
- 79964 Oct. 11—Authorizing the C.P.R. to reconstruct the east abutment of bridge No. 0·49 Saint John Subdivision over Simonds Street, City of Saint John, N.B.
- 79965 Oct. 11—Approving proposed location of storage tanks of Canadian Oil Companies Limited near C.N.R. tracks at Chicoutimi, P.Q.
- 79966 Oct. 11—Authorizing the Trans Mountain Oil Pipe Line Company to carry its company pipe line across four pipe line crossings, and two access road crossings as shown on plan (SW-4-26-52-26-W4M, Alberta.)
- 79967 Oct. 11—Approving plan, etc., showing location of Trans Mountain Oil Pipe Line Company pipe line within New Westminster District, British Columbia.
- 79968 Oct. 15—Permitting the removal of slow order at C.N.R. crossing two miles north of Town of Brechin East, Ontario.
- 79969 Oct. 15—Permitting the removal of slow order at C.P.R. crossing first east of station at Green Valley, Ontario.
- 79970 Oct. 15—Requiring that all train movements over C.N.R. crossing of Ottawa Street, Hamilton, Ontario, be flagged by a member of the train crew.
- 79971 Oct. 15—Approving temporary location of storage tanks of Imperial Oil Limited, near C.N.R. tracks at Chatham, N.B.
- 79972 Oct. 15—Approving plans showing location of Trans-Northern Pipe Line Company pipe line from point in City of Toronto to Point in Township of York.
- 79973 Oct. 15—Approving proposed location of storage tank, etc., of Imperial Oil Company Limited, near C.P.R. tracks at Shoal Lake, Man.
- 79974 Oct. 15—Approving proposed re-location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Stettler, Alta.
- 79975 Oct. 15—Approving by-law of the City of Edmonton, Alta.
- 79976 Oct. 16—Authorizing the C.N.R. to remove mechanical gates and watchman at N. St. C. & T. Railway Crossing of Niagara Street, St. Catharines, Ont.
- 79977 Oct. 16—Requiring railway companies to provide on carload shipments of lumber and forest products loaded on flat or gondola cars equipped with bands, standards, stakes, etc., an allowance of 200 lbs. for each pair of full length stakes used, etc.

- 79978 Oct. 16—Authorizing the C.P.R. to construct a siding across Raleigh Street, East Kildonan, Man., to serve Fibre Board Manufacturing Limited.
- 79979 Oct. 16—Authorizing the C.N.R. to reconstruct their bridge over Serviceberry Creek, Alberta.
- 79980 Oct. 16—Authorizing the C.P.R. to construct concrete culvert over Quaker Brook, N.B.
- 79981 Oct. 16—Permitting the removal of slow order at C.N.R. crossing of Fruitland Road, near Winona, Ontario.
- 79982 Oct. 17—Authorizing the C.N.R. to construct a footway to the easterly side of their swing bridge over the Burlington Canal, Ontario.
- 79983 Oct. 17—Approving location and details of the C.N.R. station shelter at Waverley, N.S.
- 79984 Oct. 17—Authorizing the Alberta Department of Highways to widen its highway across the C.P.R. at mileage 5·64 Leduc Subdivision, Alberta.
- 79985 Oct. 18—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Joliette, P.Q.
- 79986 Oct. 18—Restricting speed of trains over British Columbia Electric Railway Company Limited crossing of Victoria Drive, Vancouver, B.C.
- 79987 Oct. 18—Approving plan showing alteration in protection at Merritt Avenue, Chatham, Ontario. (C.P.R.)
- 79988 Oct. 18—Permitting the removal of slow order at C.N.R. crossing, Village of Ocean Pond, Newfoundland.
- 79989 Oct. 18—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 79990 Oct. 18—Approving plan filed by Department of Highways for Ontario showing proposed overhead bridge in Lots 24 and 25, Concession A, Township of Etobicoke, Brampton Subdivision, Ontario.
- 79991 Oct. 18—Authorizing the Municipality of L'Ancienne Lorette to widen the highway across the C.P.R. at mileage 149·09 Laurentian Division, Quebec Subdivision.
- 79992 Oct. 18—Requiring the C.N.R. to install protection at crossing of Highway No. 25A, mileage 100·1 Montmagny Subdivision, Province of Quebec.
- 79993 Oct. 18—Amending Order No. 78600, dated March 27, 1952, which authorized the realignment of the road allowance across the C.N.R. at mileage 13·7 Bengough Subdivision.
- 79994 Oct. 18—Approving plan filed by C.N.R. showing changes to the interlocking plant at crossing of C.P.R. near Gladstone, Man.
- 79995 Oct. 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Rocklen, Sask.
- 79996 Oct. 20—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Asquith Subdivision, Saskatchewan.
- 79997 Oct. 20—Approving proposed location of pipe lines, etc., of C.N.R. near their tracks at Hamilton, Ontario.
- 79998 Oct. 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. tracks at Valemount, B.C.
- 79999 Oct. 20—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at Belleville, Ontario.
- 80000 Oct. 20—Approving proposed location of pipe lines, etc., of C.N.R., near their tracks at Brantford, Ontario.
- 80001 Oct. 20—Restricting the speed of trains at N.S. & T. Railway crossing of Berryman Avenue, St. Catharines, Ontario.
- 80002 Oct. 20—Approving location of Quebec, North Shore & Labrador Railway Company line, from mileage 60 to 120, in unsurveyed territory in Province of Quebec.
- 80003 Oct. 20—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Prince Albert Subdivision, Saskatchewan.
- 80004 Oct. 20—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Napinka Subdivision, Manitoba.
- 80005 Oct. 23—Authorizing clearances at siding serving United Steel Corporation Limited, Toronto, Ontario. (C.P.R.)
- 80006 Oct. 23—Approving clearances at siding serving the Canadian Machinery & Industry Construction Limited, at Octagon Pond, Newfoundland.
- 80007 Oct. 23—Permitting the removal of slow order at C.N.R. crossing in town of Brigus, Newfoundland.
- 80008 Oct. 23—Permitting the removal of slow order at C.P.R. crossing of 50th Avenue South East, Calgary, Alta.
- 80009 Oct. 23—Restricting the speed of Lake Erie & Northern trains at crossing of Mount Pleasant Road, Brantford, Ontario.

- 80010 Oct. 23—Permitting the removal of slow order at C.N.R. crossing first east of station at Malton, Ontario.
- 80011 Oct. 23—Restricting the speed of C.N.R. trains at crossing of First Street, Collingwood, Ontario.
- 80012 Oct. 23—Permitting the removal of slow order at C.P.R. crossing of Regent Street, Sudbury, Ontario.
- 80013 Oct. 23—Authorizing the C.N.R. to operate the bridges at mileages 76.8 and 116.0 Cromer Subdivision, Manitoba.
- 80014 Oct. 23—Authorizing the C.N.R. to operate the bridge at mileage 42.4 Lampman Subdivision, Saskatchewan.
- 80015 Oct. 23—Approving proposed location of storage tank, etc., of Manitoba Co-Operative Wholesale Limited, near C.N.R. tracks at Gladstone, Manitoba.
- 80016 Oct. 23—Approving plan showing proposed changes in track layout near C.N.R. crossing of Provincial Highway, No. 69, Township of Humphrey, Ontario.
- 80017 Oct. 23—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near C.N.R. tracks at La Tuque, P.Q.
- 80018 Oct. 23—Approving proposed location of storage tank, etc., of Elgin Co-Operative Service near N.Y.C. tracks at St. Thomas, Ontario.
- 80019 Oct. 23—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at St. John's, Newfoundland.
- 80020 Oct. 23—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. tracks at Somerset, Man.
- 80021 Oct. 23—Relieving the C.N.R. from erecting cattle guards at certain mileages on their Asquith Subdivision, Province of Saskatchewan.
- 80022 Oct. 24—Dismissing the application of Railway Association of Canada for an immediate increase of 8 per cent in freight rates, etc.
- 80023 Oct. 23—Authorizing the Trans Mountain Oil Pipe Line Company to construct its pipe line across the Clearwater River, Province of British Columbia.
- 80024 Oct. 24—Authorizing the railways to publish and file tariff schedules giving effect to grain rate changes authorized to be made by judgment dated Oct. 24, 1952.
- 80025 Oct. 24—Relieving the C.N.R. from erecting cattle guards at certain crossings on their Craik Subdivision.
- 80026 Oct. 24—Authorizing the Canadian Gulf Pipe Line Company to construct an oil pipe line across the Interprovincial Pipe Line Company in 32-52-23-W4M, Alberta.
- 80027 Oct. 24—Rescinding Order No. 79904, dated Oct. 3, 1952, *re* protection at crossing of C.N.R. and St. Simon Road, east of station at Ste. Madeleine, P.Q.
- 80028 Oct. 24—Rescinding Order No. 75680, dated Dec. 5, 1950, approving plan submitted to C.N.R. by Supreme Refineries Limited, Barlow Junction, Calgary, Alta.
- 80029 Oct. 24—Extending time for installation of protection at The Toronto, Hamilton & Buffalo Railway Company crossing of Cochrane Road, Hamilton, Ontario.
- 80030 Oct. 24—Approving clearances at siding serving Forano Limited, at Plessisville, P.Q.
- 80031 Oct. 24—Authorizing The Bell Telephone Company to construct its lines across certain public highways in Township of Chatham, Ontario.
- 80032 Oct. 24—Permitting the removal of slow order at C.N.R. crossing, first south of station in Town of Moosehorn, Manitoba.
- 80033 Oct. 24—Authorizing the clearances of temporary falsework during construction of overhead bridge at mileage 1.6 Indian Head Subdivision, Saskatchewan.
- 80034 Oct. 24—Authorizing the C.N.R. to reconstruct the bridge across the Towachiche River, P.Q.
- 80035 Oct. 25—Approving operation of C.N.R. train over three private sidings of Gypsum, Lime & Alabastine, Limited and across No. 10 side road in Township of North Oxford, Ontario.
- 80036 Oct. 25—Authorizing the Alberta Department of Highways to widen its highway across the C.N.R. at Lobstick, Alta.
- 80037 Oct. 25—Restricting the speed of trains over C.P.R. crossing of 107th Street, Edmonton, Alberta.
- 80038 Oct. 25—Approving proposed location of storage tank, etc. of Imperial Oil Limited, near C.N.R. tracks at Granby, P.Q.
- 80039 Oct. 25—Permitting the removal of slow order at C.N.R. crossing near Ste. Anne station, Parish of Ste. Anne, Province of Quebec.
- 80040 Oct. 25—Restricting the speed of trains over C.N.R. crossing near station at Greenway, Manitoba.
- 80041 Oct. 25—Permitting the removal of slow order at C.P.R. crossing first east of Verner, Ontario.

**ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
SEPTEMBER, 1952**

Railway Accidents	250	Killed 14	Injured 322
Level Crossing Accidents.....	36	Killed 23	Injured 39
Totals.....	286	Killed 37	Injured 361

	<i>Killed</i>	<i>Injured</i>
Passengers	—	95
Employees	2	219
Others	35	47

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

Accidents K. I.

NEWFOUNDLAND

- 1 — 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Nfld. 12430.

NOVA SCOTIA

- 1 1 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. 18918.
1 3 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 4-2089.

NEW BRUNSWICK

- 1 1 2 Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 40-978.

QUEBEC

- 1 4 — Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 122-909.
1 — 1 Automobile ran into side of train. Licence: Que. 253375.
1 — 2 Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1 — 1 Automobile ran into side of train. Licence: Que. F-60539.

ONTARIO

- 1 — 1 Automobile ran into side of track motor car. Licence not given.
1 — 1 Pedestrian walked onto crossing in front of approaching train and was struck.
1 — 2 Auto truck drove onto crossing and was struck by track motor car. No licence.
1 — 2 Auto truck ran into side of train. Licence: Ont. B-44200.
1 — 1 Automobile ran into side of train. Licence: Ont. 639-DW.
1 1 — Automobile drove onto crossing in front of approaching train and was struck. Licence: Not given.
1 3 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. AH-549.
1 1 1 Automobile drove onto crossing in front of approaching train and was struck. Licence: N.Y. 9-M-42-25.
1 — 2 Automobile drove onto crossing in front of approaching train and was struck. Licence: Not given.
1 — 2 Automobile ran into side of train. Licence: Not given.
1 — 1 Automobile ran into side of train backing over crossing. Licence: Not given.
1 — 2 Automobile drove onto crossing in front of backing train and was struck. Licence: Ont. DN-187.
1 1 — Child walked onto crossing in front of approaching train and was struck.

Accidents K. I.

1	1	1	Automobile	drove onto crossing in front of approaching train and was struck. Licence: Ont. 494-N.
1	1	—	Auto truck	drove onto crossing in front of approaching train and was struck. Licence: Ont. C-47503.
1	2	—	Automobile	drove onto crossing in front of approaching train and was struck. Licence: Ont. 8335-K.
1	—	1	Auto truck	ran into side of train. Licence: Ont. B-21027.
1	—	1	Automobile	drove onto crossing in front of approaching train and was struck. Licence: Ont. 434-B-3.

MANITOBA

1	—	1	Auto truck	drove onto crossing in front of approaching train and was struck. Licence: Man. 3576.
1	—	1	Auto truck	drove onto crossing in front of approaching train and was struck. Licence: Man. T-1332.
1	—	2	Automobile	ran into side of train. Licence: Man. 4-E-350.

SASKATCHEWAN

1	—	1	Automobile	drove onto crossing in front of approaching train and was struck. Licence: Sask. 37905.
1	4	—	Automobile	drove onto crossing in front of approaching train and was struck. Licence: Sask. 15371.

ALBERTA

1	—	1	Automobile	ran into side of train. Licence: Not given.
1	—	1	Automobile	drove onto crossing in front of approaching train and was struck. Licence: Alta. 42-L-54.
1	—	1	Automobile	ran into side of track motor car. Licence: Alta. 71-F-19.

BRITISH COLUMBIA

1	—	2	Automobile	drove onto crossing in front of approaching train and was struck. Licence: B.C. 1-R-699.
1	—	1	Road Grader	drove onto crossing in front of approaching train and was struck.

Of the 36 accidents at highway crossings, 27 occurred at unprotected crossings, and 9 at protected crossings. Twenty-two occurred after sunrise and fourteen after sunset.

OTTAWA, Ont., November 1, 1952.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

December 1, 1952

No. 17

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 80129

In the matter of the application of the Canadian Freight Association, dated October 2, 1952, for approval of Supplement No. 2 to Agreed Charge tariff C.T.C. (AC) No. 47:

File No. 40994-36

THURSDAY, the 6th day of November, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C. *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge tariff C.T.C. (AC) No. 47 be, and it is hereby approved, and that the date from which the said Supplement No. 2 shall become operative is hereby fixed as November 1, 1952.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 80134

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 10 to Agreed Charge Tariff C.T.C. (AC) No. 14:

File No. 40994-16

THURSDAY, the 6th day of November, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 10 to Agreed Charge Tariff C.T.C. (AC) No. 14 on file with the Board under file No. 40994-16, be, and it is hereby approved; and that the date as from which the said Supplement No. 10 shall be deemed to have become operative is hereby fixed as November 1, 1952.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 80206

In the matter of the application of the Canadian Freight Association, dated September 27, 1952, under the provisions of Part V of the Transport Act, 1938, for approval of an agreed charge:

File No. 40994-38

MONDAY, the 17th day of November, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C. *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge dated September 27, 1952, between Canada Steamship Lines Limited, Canadian National Railway Company, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), Northern Alberta Railways Company, Northern Navigation Company Limited, Northwest Steamships Limited, Ontario Northland Railway and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited, on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, on file with the Board under file No. 40994-38, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 1st day of October, 1952.

F. M. MACPHERSON,
Commissioner.

ORDER No. 80235

In the matter of Agreed Charge C.T.C. (AC) No. 46 between the British American Oil Company Limited, Canadian National Railways and Canadian Pacific Railway Company, on petroleum products as therein specified, in carloads, in tank cars only, from Moose Jaw, Saskatchewan, to points in the Province of Manitoba, approved by Order No. 77946, dated December 15, 1951:

File No. 40994-35

THURSDAY, the 20th day of November, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas McColl-Frontenac Oil Company Limited has made application under subsection (6) of Section 35 of The Transport Act, 1938, and represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from Moose Jaw, Saskatchewan, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge:

It is ordered that the Agreed Charges approved by the said Order No. 77946, dated December 15, 1951, be, and they are hereby, fixed for the transport, by the said Canadian National Railways and Canadian Pacific Railway Company, of petroleum products as described in paragraph B of the said Agreed Charge for McColl-Frontenac Oil Company Limited from Moose Jaw, Saskatchewan, to the stations referred to in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said charges fixed as aforesaid are to come into operation.

F. M. MACPHERSON,
Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80042 Oct. 27—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.P.R. tracks at Carman, Man.
- 80043 Oct. 27—Approving proposed location of storage tank of George Mickle & Son near tracks of The Chesapeake & Ohio Rly. Co. at Ridgetown, Ont.
- 80044 Oct. 28—Approving under Maritime Freight Rates Act tolls published in Tariff and Supplements thereto, filed by C.P.R. under Sections 3 and 9.
- 80045 Oct. 27—Approving proposed location of storage tank of C.N.R. near their tracks at Truro, N.S.
- 80046 Oct. 27—Approving proposed location of storage tank of Imperial Oil Ltd. near C.P.R. tracks at Fannystelle, Man.
- 80047 Oct. 27—Relieving the Quebec North Shore & Labrador Rly. Co. from erecting fences on the right-of-way within limits of Town of Seven Islands, Que.
- 80048 Oct. 27—Approving plan showing signal changes between mileage 125 and 136.6 Laggan Subdivision, Alberta.
- 80049 Oct. 29—Approving signal protection proposed to be installed by Quebec North Shore & Labrador Rly. Co. from mileage 60.0 to 110.0, Province of Quebec.
- 80050 Oct. 29—Approving abandonment of operation of portion of C.N.R. Renfrew Subdivision from mileage 2.5 to 12.2, Province of Ontario.
- 80051 Oct. 29—Permitting the removal of slow order at C.P.R. crossing of Highway No. 1, Strathmore, Alta.
- 80052 Oct. 29—Extending time for installation of protection at T.H. & B. Rly. Co. crossing of Rosedale Ave., Hamilton, Ont.
- 80053 Oct. 29—Authorizing the Grand Trunk Pacific Rly. Co. to construct a branch line in City of Edmonton, Alta.
- 80054 Oct. 29—Authorizing Imperial Oil Ltd. to construct a petroleum pipe line along the Canadian Northern Ontario Rly. Co. and C.N.R. East York and North York, Ontario.
- 80055 Oct. 29—Approving certain schedules filed by the C.N. Telegraph Co. and C.P. Rly. Co. covering telegraph rates applicable between Canada and U.S.A.
- 80056 Oct. 29—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its pipe line across Hardisty Creek, Alberta.
- 80057 Oct. 29—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its pipe line across the Thompson River, B.C.
- 80058 Oct. 29—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its pipe line across the Fraser River near Port Mann, British Columbia.
- 80059 Oct. 29—Authorizing the Trans Mountain Oil Pipe Line Co. to construct its pipe line across the Miette River within Jasper National Park, Alberta.
- 80060 Oct. 30—Approving under Maritime Freight Rates Act toll published in Supplement to Tariff filed by the D.A. Rly. Co. under Section 9.
- 80061 Oct. 30—Requiring the C.P.R. to install protection at crossing of Highway No. 44, mileage 62.0 Trois Rivières Subdivision, Quebec.
- 80062 Oct. 20—Authorizing the city of Thetford Mines, Que., to construct Ouellet St., East, across Quebec Central Rly. Co., Thetford Mines, Que.
- 80063 Oct. 30—Requiring the C.N.R. to install protection at crossing in Village of Howick, Quebec.
- 80064 Oct. 30—Requiring the C.P.R. to install protection at crossing of Avenue "A", Saskatoon, Sask.
- 80065 Oct. 30—Restricting the speed of trains over Midland Rly. Co. crossing of Ellice Ave., Winnipeg, Man.
- 80066 Oct. 30—Authorizing the City of Thetford Mines, Que., to construct a public pedestrian crossing over Quebec Central Rly. Co. opposite Lapierre Street.
- 80067 Oct. 30—Amending Order No. 79427 dated July 21, 1952, which authorized C.N.R. and C.P.R. to operate their trains through interlocking point in Province of Saskatchewan.
- 80068 Oct. 30—Authorizing the Saskatchewan Department of Agriculture to construct a culvert and ditch located on C.N.R. at mileage 41.18 Brooksby Subdivision, Saskatchewan.
- 80069 Oct. 30—Authorizing the C.P.R. to operate reconstructed bridge at mileage 93.0 Estevan Subdivision, Saskatchewan.
- 80070 Oct. 30—Authorizing McColl-Frontenac Oil Co. Ltd. to be made a party to Agreed Charge C.T.C. (AC) No. 48, approved by Order No. 79470 dated July 25, 1952.
- 80071 Oct. 30—Withdrawing Board's approval of McColl-Frontenac Oil Co. Ltd. being a party to Agreed Charge C.T.C. (AC) No. 41.
- 80072 Oct. 30—Approving proposed location of storage tanks of Truax Fuels near tracks of T.H. & B. Rly. Co. at Brantford, Ont.
- 80073 Oct. 30—Authorizing C.N.R. to construct an additional track across Ridley Road, Township of Grantham, Ontario.

- 80074 Oct. 30—Authorizing the Town of Liverpool, N.S., to construct a highway across the C.N.R. wharf spur line.
- 80075 Oct. 30—Approving under Maritime Freight Rates Act toll published in Tariff filed by the C.F.A. under Sections 3 and 9.
- 80076 Oct. 30—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 80077 Oct. 30—Approving under Maritime Freight Rates Act tolls published in supplement to tariff filed by the C.P.R. under Sections 3 and 9.
- 80078 Oct. 30—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Section 9.
- 80079 Nov. 1—Approving Supplement to Service Station Contract between The Bell Telephone Co. and the Romney Telephone System.
- 80080 Nov. 1—Restricting the speed of C.P.R. trains over crossing mileage 1.48 Prescott Subdivision, Ontario.
- 80081 Nov. 1—Authorizing the C.N.R. to improve the sight line at crossing at mileage 18.46 Brazeau Subdivision, Province of Alberta.
- 80082 Nov. 1—Approving proposed location of storage tank of C.P.R. for handling of inflammable liquids at St. Luc Yard, Montreal, Quebec.
- 80083 Nov. 1—Permitting the removal of slow order at Algoma Central & Hudson Bay Rly. Co. crossing of Fourth Line Road, north of Sault Ste. Marie, Ont.
- 80084 Nov. 1—Approving Supplements to Traffic Agreements between The Bell Telephone Co. and the Brussels, Morris & Grey Municipal Telephone System.
- 80085 Nov. 1—Approving Traffic Agreement between The Bell Telephone Co. and The Corporation of Town of Dryden, Ontario.
- 80086 Nov. 1—Permitting the removal of slow order at C.P.R. crossing east of Calumet, Quebec.
- 80087 Nov. 1—Permitting the Imperial Oil Ltd. to construct a petroleum products pipe line across and under the tracks of C.N.R. and Hamilton Harbour Commissioners.
- 80088 Nov. 3—Approving plan, etc., showing relocation of Trans Mountain Pipe Line Co. pipe line within the North Alta. Land Registration District, Alberta.
- 80089 Nov. 3—Approving plan, etc., showing location of Trans Mountain Pipe Line Co. pipe line within Yale Division, Province of British Columbia.
- 80090 Nov. 3—Restricting the speed of trains over C.N.R. crossing of 127th Street, Edmonton, Alberta.
- 80091 Nov. 3—Restricting the speed of trains at crossing mileage 95.34 Blaine Lake Subdivision, Saskatchewan.
- 80092 Nov. 3—Authorizing the C.N.R. to reconstruct bridge across Boulder Creek, B.C.
- 80093 Nov. 3—Approving under Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominion Atlantic Rly. Co. under Sections 3 and 9.
- 80094 Nov. 3—Permitting the C.N.R. to remove speed restriction at crossing of C.N.R. in Town of Tracadie, N.S.
- 80095 Nov. 3—Permitting the C.N.R. to remove speed restriction at C.N.R. crossing at mileage 7.28 Beachburg Subdivision, Province of Ontario.
- 80096 Nov. 3—Approving under Maritime Freight Rates Act tolls published in Tariff filed by C.F.A. under Sections 3 and 9.
- 80097 Nov. 3—Amending Order No. 79493 dated July 31, 1952, approving tolls published in Tariff C.T.C. No. 1292 and Supplement No. 135 filed by C.F.A.
- 80098 Nov. 3—Permitting the removal of slow order at C.N.R. crossing at mileage 47.43 Fort Frances Subdivision, Ontario.
- 80099 Nov. 4—Approving re-location of C.P.R. Tobique Subdivision, Province of New Brunswick.
- 80100 Nov. 4—Authorizing the Alberta Department of Highways to widen the highway across the C.P.R. at mileage 48.0 Lomond Subdivision.
- 80101 Nov. 4—Authorizing The Bell Telephone Co. to construct its lines of telephone along certain highways in Township of Harwich, Ontario.
- 80102 Nov. 4—Authorizing Quebec Department of Roads to re-align its highway across the C.N.R. at mileage 28.16 Sorel Subdivision, Mun. of Contrecoeur.
- 80103 Nov. 4—Approving tolls published in Tariff filed by the C.F.A. under Sections 3 and 9 of the Maritime Freight Rates Act.
- 80104 Nov. 4—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Section 9.
- 80105 Nov. 4—Requiring that all movements over the C.N.R. crossing of Egerton St., London, Ont., be protected by a member of the train crew.
- 80106 Nov. 4—Permitting removal of slow order at C.P.R. crossing of Eighth Street, Woodbridge, Ont.
- 80107 Nov. 4—Rescinding Order No. 76564 dated May 10, 1951, *re* plan submitted to C.N.R. by Gray Propane Ltd. showing proposed location of storage tank, etc. at North Battleford, Sask.

- 80108 Nov. 4—Permitting the removal of slow order at C.N.R. crossing of Arthur St., Harriston, Ont.
- 80109 Nov. 4—Approving under Maritime Freight Rates Act toll published in Supplement to Tariff filed by the Sydney & Louisburg Rly. Co. under Section 3.
- 80110 Nov. 4—Restricting the speed of trains over C.N.R. crossing of 111th Avenue, Edmonton, Alta.
- 80111 Nov. 4—Permitting the removal of slow order at C.P.R. crossing of Cremona-Acme Road, Carstairs, Alta.
- 80112 Nov. 4—Permitting the removal of slow order at C.N.R. crossing of Highway No. 14, mileage 4.32 Camrose Subdivision, Alberta.
- 80113 Nov. 5—Permitting the removal of slow order at C.N.R. crossing of Concession Road, Preston, Ontario.
- 80114 Nov. 5—Approving under Maritime Freight Rates Act tariffs filed by the C.N.R. under Section 3.
- 80115 Nov. 6—Authorizing Trans Northern Oil Pipe Line Co. to construct its company pipe line under Rideau Canal, Township of Kingston, Ontario.
- 80116 Nov. 6—Authorizing C.N.R. to operate the swing bridge over the Burlington Canal, Ontario.
- 80117 Nov. 6—Approving under Maritime Freight Rates Act tolls published in Supplement to Tariff filed by C.F.A. under Sections 3 and 9.
- 80118 Nov. 6—Permitting the removal of slow order at C.N.R. crossing near Cantic, Que.
- 80119 Nov. 6—Permitting removal of slow order at C.N.R. crossing of Kennedy Road, Scarboro, Ontario.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, December 15, 1952

No. 18

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Railway Association of Canada for an Order rescinding G.O. No. 125, insofar as said Order gave effect to Part XX of the Judgment of the Board dated April 6, 1914, which inter alia prescribed a scale of local mileage rates on grain and grain products within Western Canada.

File No. 46921

Before:

HON. MR. JUSTICE JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Assistant Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

K. D. M. SPENCE and I. D. SINCLAIR, for the Railway Association of Canada and the Canadian Pacific Railway Company.

A. K. DYSART and A. H. HART, for the Railway Association of Canada and the Canadian National Railways.

M. A. MACPHERSON, Q.C., for the Government of the Province of Saskatchewan.

C. W. BRAZIER, for the Government of the Province of British Columbia.

J. J. FRAWLEY, Q.C., for the Province of Alberta.

C. D. SHEPARD, Q.C., for the Province of Manitoba.

W. MACDOUGALL, for the Canadian National Millers Association.

T. C. LOCKWOOD and J. K. SMITH, for the Aluminum Company of Canada Limited.

JUDGMENT

KEARNEY, J., *Chief Commissioner:*

As announced yesterday, the Board has arrived at a decision in this case. Reasons for judgment will follow next week.

In the application in this case the railways applied for an order rescinding the Board's General Order No. 125, dated May 30, 1914, insofar as it gave effect to Part XX of the so-called Western Rates judgment which prescribed a scale of

local mileage rates on grain and grain products within Western Canada and made these rates subject to a hold-down to the maxima of the Crow's Nest Pass grain rates at intermediate points in the direct line of transit between the Prairie Provinces and Fort William. The application also asked authority to publish a new scale of local mileage rates on grain within Western Canada as set out in Appendix "B" to the application. The mileage scale proposed was the same as that now in effect in Eastern Canada. The proposed rates would average about 57 per cent over the present rates.

The railways based their application mainly on the grounds that the present Western scale of mileage rates on grain is unreasonably low having regard to the increase in the cost of railway operation since the scale was last dealt with in 1921, and that it creates unjustified disparities in the grain rates in Western Canada and also as compared with grain rates in Eastern Canada.

The application was opposed by Counsel for the Governments of Manitoba, Saskatchewan, Alberta and British Columbia, and by a representative of the Canadian National Millers Association.

The Board has decided that an increase in the local western grain mileage scale is justified, but not to the extent applied for nor in the manner suggested in Appendix "B" to the application. The Board has devised a new scale which we consider a step towards equalization and more suitable for the conditions of Western Canada. The scale is based upon a regular rate of progression and tapering having regard to mileage, and the increases vary from one cent to thirteen cents on individual rates, compared with two cents to fifty-five cents suggested by the railways.

The Board also finds that present circumstances do not warrant the removal of the hold-down already referred to, but this question and the level of the aforementioned mileage scale will be reviewed in the Equalization Case now pending.

The scale hereby authorized followed:—

**CARLOAD RATES ON GRAIN AND GRAIN PRODUCTS BETWEEN
POINTS IN WESTERN CANADA, PORT ARTHUR, ONT., ARM-
STRONG, ONT., AND WEST THEREOF, SUBJECT TO DESCRIP-
TIONS AND MINIMUM WEIGHTS SPECIFIED IN CURRENT
FREIGHT TARIFFS.**

(Rates in Cents per 100 lbs.)

<i>Miles (up to and including)</i>	<i>Rate</i>	<i>Miles (up to and including)</i>	<i>Rate</i>
5	6	120	21
10	7	130	22
15	8	140	23
20	9	160	24
25	10	180	25
30	11	200	26
35	12	220	27
40	13	240	28
50	14	260	29
60	15	280	30
70	16	300	31
80	17	320	32
90	18	340	33
100	19	360	34
110	20	380	35

(Rates in Cents per 100 lbs.)

<i>Miles (up to and including)</i>	<i>Rate</i>	<i>Miles (up to and including)</i>	<i>Rate</i>
400	36	1100	58
425	37	1150	59
450	38	1200	60
475	39	1250	61
500	40	1300	62
525	41	1350	63
550	42	1400	64
575	43	1450	65
600	44	1500	66
625	45	1550	67
650	46	1600	68
675	47	1650	69
700	48	1700	70
725	49	1750	71
750	50	1800	72
775	51	1850	73
800	52	1900	74
850	53	1950	75
900	54	2000	76
950	55	2050	77
1000	56	2100	78
1050	57	2150	79
		2200	80

An Order will go permitting the publication of tariff schedules on not less than ten days notice giving effect to the rate changes herein authorized.

October 24, 1952.

JOHN D. KEARNEY.

I concur:

HUGH WARDROPE.

I concur:

ARMAND SYLVESTRE.

I concur:

FRANK M. MACPHERSON.

I concur:

H. B. CHASE.

ORDER No. 80024

In the matter of the application of the Railway Association of Canada for an Order rescinding G. O. No. 125, insofar as said Order gave effect to Part XX of the Judgment of the Board dated April 6, 1914, which inter alia prescribed a scale of local mileage rates on grain and grain products within Western Canada.

File No. 46921

FRIDAY, the 24th day of October, A.D.1952.

HON. MR. JUSTICE JOHN D. KEARNEY, *Chief Commissioner.*HUGH WARDROPE, *Asst. Chief Commissioner.*A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*F. M. MACPHERSON, *Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at the sittings of the Board at Ottawa in the presence of Counsel for the Railway Association of Canada, the Canadian Pacific Railway Company, the Canadian National Railways, the Province of Saskatchewan, the Province of British Columbia, the Province of Alberta, the Province of Manitoba, and representatives of the Canadian National Millers Association and the Aluminum Company of Canada Limited—

It is ordered that the railways subject to the jurisdiction of the Board may publish and file tariff schedules on not less than ten days notice giving effect to the rate changes authorized to be made by the judgment herein dated October 24th, 1952.

JOHN D. KEARNEY,

Chief Commissioner.

In the matter of the application of the Railway Association of Canada for an Order rescinding General Order No. 125, insofar as said Order gave effect to Part XX of the Judgment of the Board, dated April 6, 1914, which inter alia prescribed a scale of local mileage rates on grain and grain products within Western Canada.

File No. 46921

REASONS FOR JUDGMENT DATED OCTOBER 24, 1952.

I mentioned when rendering the above mentioned decision that reasons for judgment would follow shortly.

In this discussion, unless the context states otherwise, it should be understood that wherever "grain" is referred to, the expression includes grain products, grain by-products and articles related thereto which are commonly included in the said terms in the freight tariffs.

The subject matter of this application previously came before the Board as part of the application dated December 21, 1950, as amended at subsequent dates, filed by the Railway Association of Canada on behalf of its members, for general increases in freight rates of 5% and 17%, being a compound total of 22·85% (or 23·9% generally if certain exceptions were made).

That case (after an interim increase of 12% permitted by Order No. 76886) was decided by the Board in a judgment dated January 25, 1952, Vol. XLI, J.O.R. & R., p.1, in which the railways were permitted an increase of 17% in

freight rates within Canada with certain exceptions, such exceptions applying principally on basic commodities. The case is now known and referred to as "the 17% case".

Apart from the exceptions authorized by the Board in that case, the matter of an increase in the local mileage rates on domestic grain within Western Canada, was withdrawn from the main application, under the following direction of the Board:

"The main application included a request for an increase in domestic rates in Western Canada on grain and grain products, notwithstanding that a similar request had been refused in the 21 per cent judgment. To adjudicate again upon this question might unduly prolong these proceedings, and as the recent Royal Commission Report on Transportation (hereinafter called the Royal Commission Report) said, applications for general freight rate increases should be disposed of with despatch. The Board, therefore, directed the applicants to withdraw from the main application that portion of it which concerned western domestic grain rates and permitted the applicants to incorporate it in a separate application which the Board will set down for hearing on request." (p. 2 of Judgment).

The 21% Increase Case

It should be noted here that in the 21% case of March, 1948 the Board denied the increase on domestic Western grain mileage rates for the following reasons:

"Inasmuch as no advance was applied for or is being made with respect to the rates on grain and grain products from points within Western Canada to the head of the lakes, and Armstrong, Ontario, or to British Columbia coast points when for export, it is considered that no increase should be authorized in the domestic grain and grain products rates between points in Western Canada or with respect to the feed grain rates covered by C.F.A. Tariff 145, C.T.C. 154. To increase these rates with no increase in the others would create a spread in the rates, which, it is considered, would be unreasonable."

(Vol. XXXVIII, J.O.R. & R. p. 63).

In the above quotation, four types of rates on grain are referred to. In sequence they are, (1) the rates from Prairie points to Fort William, Port Arthur and Armstrong, Ont., which are familiarly known as the "Crows Nest Pass grain rates", and which are not subject to revision by this Board; (2) the rates from the Prairies to Vancouver, New Westminster, Victoria and Prince Rupert for export; (3) the domestic or local rates between points in Western Canada; and (4) the special rates on feed grain from points in Saskatchewan and Alberta to British Columbia.

The increase which the railways now asked for would be applicable to item "(3)".

The 20% Increase Case

After the decision in the 21% case, the railways asked for a further increase of 20% in all freight rates generally, (with a few exceptions) which, after various interim or partial increases, was finally granted in full in May, 1950 (reported in Vol. XL, J.O.R. & R., p. 1); but in this particular case the railways did not renew their request for an increase on local grain rates in Western Canada.

Subsequent to that decision, the rates on "feed grain" published in C.F.A. Tariff 145, C.T.C. 154 as a concession by the railways under an expiry date, were permitted to expire; thus, the only matter now to be dealt with is the local grain mileage scale.

The 17% Increase Case

As stated, however, in the third recent general increase case, the railways renewed their application for an increase in the local Western grain rates, but limited it to 17%. This would have compared with increases on other commodities of 21%, plus 20%, plus 17%, which, as compounded, make a total of approximately 70%.

The Most Essential Allegations of the Present Application.

The main grounds upon which the railways base the new application are:

- (a) The justification for the rescission of General Order No. 125;
- (b) The present scale has not been changed since December 1, 1921, although the cost of railway operation within Western Canada has substantially increased since that time; and in consequence these mileage rates on grain within Western Canada are unreasonably low. This position was emphasized by counsel and witnesses for the railways at the hearing, as being an application for "just and reasonable rates", on local grain mileage hauls in Western Canada;
- (c) The mileage scale proposed would be the same scale as in Eastern Canada, and in conformity with the national freight rates policy enunciated in Section 332A of the Railway Act. At the hearing, however, counsel for the railways minimized the equalization aspect of the case as being only incidental to the application, and laid more stress on the aspect of the proposed rates being "just and reasonable".

Position of the Western Provinces

All of the Western Provinces were represented by counsel. Generally they were in opposition to the application on the ground that the railways had not made out a case for an increase in these grain rates. This general attitude however was accompanied by modifying statements; the statement of the Province of Manitoba was that if in the Board's opinion a case had been made out, the increase should be limited to 17%. The statement of the position of the Province of Saskatchewan was that "valleys" of low freight rates were necessary in the rate structure for the encouragement of agricultural development of the Western Provinces, and that the proper manner to compensate the railways for such low rates was by subsidy, as the Province of Saskatchewan had recommended to the Royal Commission on Transportation. The view of the Province of Alberta was that the case should be remitted to the general freight rate inquiry, i.e., the Equalization Case now pending, but the Province was not, by doing so, saying that a rate should remain forever on a low level, but that the grain rates are only part of a necessary general revision and all rates should be considered and revised together. Counsel for Alberta pointed further to the fact that the proposed scale of grain rates is badly distorted in its mileage progression, and, therefore should not be seriously considered as an equalized scale for future application in Western Canada. The Province of British Columbia modified its general opposition to the increase by the statement that if the Board is satisfied that the present rates are too low, and are not just and reasonable to the railways under present circumstances, there would be no objection by the Province to the Board increasing them somewhat, but that the Board should evolve a scale of its own, in which consideration would be given to the traffic east and west, and the distances that traffic travels.

*Comparison of the Present Application with the Original
as presented in the 17% Case.*

There are radical differences between the application as now presented from the one which the Board removed from the 17% case in order not to unduly delay proceedings.

Instead of asking for a 17% increase on Western local mileage grain rates as they then stood, the Railway Association asked for—(a) an order rescinding General Order No. 125 in so far as the said order gave effect to Part XX of the Judgment of the Board, dated April 6, 1914, which inter alia prescribed a scale of local mileage rates on grain within Western Canada subject to the hold-down of the Crows Nest Pass rates; (b) an authorization to increase Western domestic grain rates not subject to the hold-down and with increases ranging from 2 cents to 55 cents per 100 pounds; (c) a request that the Board authorize substitution of the Eastern grain mileage scale for Western domestic grain rates which, among other things, would give effect to the authorization sought in sub-paragraphs (a) and (b) above.

The Railway Association estimated that the combined effect of the permissions referred to in sub-paragraphs (a) and (b) would be to raise the level of Western domestic grain rates by an average of 57.2%. How much of the afore-said 57.2% would be accounted for by the rescission of the hold-down prescribed in General Order No. 125 was not determined with any precision during the hearing and in fact to do so owing to prevailing methods of shipping grain such determination even with extended research would be most difficult.

For example, wheat milled in transit and shipped from the transit point as flour, loses its identity. The practice is to allow the miller within a period of 6 months to apply an equivalent quantity of inward wheat, of his own choice, to that of the outward flour hence a technical "through" movement is created. At the initial movement of the wheat, therefore, the railway has no means of knowing what its revenue will ultimately be.

There is also the difficulty of determining from railway waybills what portion of inward wheat to a milling point would be consumed there. For example a car of wheat to Winnipeg would now be charged the Fort William rate whether the product thereof was consumed there or shipped on to Fort William. But if the product moved to Kenora, the Fort William maximum would not apply. The same might be said of wheat from Regina to Brandon, which if milled into flour and consumed there would pay the Fort William rate, but if the flour is shipped to Winnipeg the Fort William rate would not apply, whereas if the flour were shipped to Fort William it would apply.

To trace all of these movements would be a task of considerable magnitude and likely impossible of accurate appraisalment, consequently all that could be done would be to analyze the actual waybills on a far greater scale than the four-day sample used in the Board's waybill studies.

However the primary movements into the transit points, and the movements where the shipment was from an origin point to its final destination, were subsequently analyzed, and such "hold-down" traffic as is included therein was stated by the railways to be about 10% of the total. However the actual increase in revenue could not be definitely determined because there is no present method by which the final destinations could be ascertained from the inbound waybills on traffic subject to re-forwarding at a later date, nor what traffic would be finally subject to the hold-down. This situation is likely to continue unless the shippers, in co-operation with the railways, can find some method of separating local grain movements from grain subject to the "Crows Nest" rates.

Apart from the uncertainty as to the over-all effect of removing the hold-down Counsel for the Prairie Provinces challenged the jurisdiction of the Board to remove it. Our decision was "the Board also finds that present circumstances do not warrant the removal of the hold-down already referred to", consequently it was not necessary to decide the question of jurisdiction. The hold-down has been in effect ever since the Western Rates judgment, which in addition to prescribing local mileage rates on grain and grain products provided that these rates "should in the future be subject to the Fort William rates as maxima to or from any intermediate point on the direct line of transit to and from Fort William". I will indicate briefly the position taken by Counsel as to the Board's power in respect of the hold-down.

Counsel for the Prairie Provinces contended that because of Sections 314(5) and 325 (5) of the Railway Act the Board cannot do otherwise than continue the hold-down, for there are no circumstances sufficient to make the long and short haul rule inapplicable, therefore the Fort William rates must be maxima for shorter distances included in the longer distances to Fort William.

Counsel for the railways contended:

(a) that there is no competition between domestic grain traffic in Western Canada and grain traffic through Fort William and consequently no unjust discrimination or undue preference and Section 325(6) of the Railway Act has no application under such circumstances;

(b) that there is a fundamental difference between domestic grain traffic in Western Canada and grain traffic referred to in the proviso to Section 325(5); that the rates in the proviso are essentially export rates and in so far as further movement beyond the Lakehead is concerned represent a portion of a through rate; that there is not a "like description of goods carried under substantially similar circumstances and conditions"; consequently Section 314 (5) does not apply so as to make the Fort William rates maxima for any domestic grain traffic in Western Canada; and

(c) that the proviso in Section 325(5) applies to grain and flour moving from west of Fort William "to" Fort William or Port Arthur and does not apply to traffic moving only "between" points west of Fort William.

In considering the effect of removing the hold-down it is evident that several difficulties must be overcome, but it must be noted that the railways, by seeking its removal, appeared confident of overcoming them, and that in the period between 1907 and 1914 actually did so operate; but it must be again noted that the Board in the 1914 judgment spoke of "a large number of complaints" as to the "existence of higher charges to intermediate points on the direct movement to Fort William."

However I am impressed by the fact that in 1914, while requiring the observance of the maxima, the Board prescribed a scale of rates on a higher level to apply where the hold-down did not operate. Our decision here is the same in principle, but observes the changes in circumstances which have occurred since that time.

Some of the difficulties which would be created by the removal of the hold-down may be stated as:

1. Disruption of the local rates by re-shipping to and from Fort William at lower over-all charges;

2. Creation of new disparities by the fact that the railways' scale on grain for domestic consumption would have produced higher rates from some points on the prairies to intermediate points in Western Canada, than from the same points of origin to Eastern Canada;

3. Shippers being compelled to pay charges on grain to milling points in excess of the Fort William rate, to which level they must later be reduced if the product goes there;

4. The financing by the shippers of these excess charges and the possible right they may have to interest on the money while being retained by the railways.

We are, however, leaving the above matters open for further consideration in the equalization case now pending.

Once we leave aside consideration of the hold-down previously referred to, the present application resolves itself into one akin to the original application presented by the Railway Association in the 17% case. I say akin because there are still differences in character rather than degree between the two applications. In the present case the Railway Association asks for an order authorizing the publication of a scale of local mileage rates and rates related thereto on grain within Western Canada as set out in Appendix "B" of the application. I will have occasion to analyze the scale referred to in Appendix "B" but before doing so I wish to comment on the necessity for some increase in the present scale of these rates and the Board's reasons for limiting it in the manner set out in the judgment. It is unquestionably true that many other commodities (with very few exceptions) have been subject to successive increases which now total approximately 70%. Railway costs have increased enormously since the grain scale was put upon its present level in 1921 and it is almost self-evident that Western domestic grain rates if they are to bear a fair share of the burden of freight rate increases are at present too low. I do not therefore intend to review the evidence offered on this aspect of the case. The question that presents itself is rather to what extent and in what manner should the rates be raised.

Stated a little differently, the problem resolves itself into giving an increase which will have the effect of raising the rates on Western grain sufficiently to make them just and reasonable. The problem is easy to state but far from simple to resolve. From the point of view of revenue the railways in many cases quite properly reap much more from rates in effect on some types of commodities than on others. Where should grain for domestic use fit in this varied scale?

While the present amount of revenue on this grain is relatively small—about five million dollars in 1951 compared with probable annual freight revenues for the railways concerned of about 850 millions—the principles involved are both intricate and important.

The determination of what constitutes a reasonable rate however is an empirical function for which no formula has been found, nor is it defined by the statute. There are many considerations which must be taken into account.

In addition to the matter of reasonableness, there are in this case several factors of discrimination which make the determination of reasonableness all the more difficult. Two of the principal discriminatory factors which we have had to consider are (1) that north-and-south shipments on the Prairies, or between points not on the direct line of transit between the Prairies and Fort William, are subject to the ordinary grain mileage scale, whereas many east-and-west shipments are charged lower rates caused by the hold-down previously referred to; (2) the consumers in British Columbia are not subject to any hold-down and therefore also pay the ordinary grain mileage scale. These differences however are modified by the fact that so far as we can determine from statistics supplied to the Board, the hold-down traffic amounts to only 10% of the total, so that its importance is minimized.

I am also not unmindful that British Columbia—because in that province one principal movement from the prairies consists of grain for poultry and livestock feed—would receive some benefit from the removal of the hold-down because the resulting scale might be somewhat lower if the intermediate points on the prairies were raised to the full normal scale; but under our present judgment because of the long haul to British Columbia the burden will be increased; however as the railways pointed out, the impact of this burden is to a great extent transferred from British Columbia to the public of Canada because Government subsidies are taking care of a large portion of the freight charges on this feed grain to that Province, based upon the Calgary or Edmonton rate whichever is the lower.

One of the considerations in applying tests of reasonableness to freight rates on a particular commodity is the rate charged, or the increase in rate, which exists on other commodities.

The railways brought in comparisons of rates on potatoes and cement, which support their contention that the domestic rates on grain are too low.

It should I think be borne in mind that wheat and flour account for a very large portion of grain and grain products destined for domestic use; and bread, sometimes called the "staff of life", finds its way to every table. Some increase in freight rates on wheat and flour can be expected sooner or later to affect practically everyone, in the form of dearer bread.

This commodity may therefore be said to affect the entire public and in this connection we cite the precedent of the modified increase made on coal and coke in the 15% increase case of 1917. In the words of the judgment (22 C.R.C. 49 at p. 77) the modification was made "on a commodity of urgent necessity to the public", and was referred to with approval in the report of the Royal Commission on transportation, 1951, at page 54.

In the last three general increases since 1947, which totalled 70% on most commodities, the rates on coal and coke were increased by a small specified amount per ton, which, applied to the average freight rate on these commodities, amounts to approximately 20%. While we are not saying that coal and coke are in the same category as grain, because coal and coke are of much less value per ton than grain and grain products, nevertheless this treatment is an indication of the type of rate increase that has been made in the past with respect to some articles in which there is a vital public interest.

The foregoing are but some of the considerations which enter into the problem of arriving at rates which will prove just and reasonable. The applicants claimed that an increase which they calculated at over 57% is what is needed to meet the situation.

The scale of rates which we have authorized will certainly not result in the aforementioned percentage increase, nevertheless we calculate that it will not inconsiderably exceed the 17% requested in the original application. *At the present time, and taking into account the existing circumstances*, we consider that the action of the Board as set out in our judgment is best calculated to put Western grain rates on a just and reasonable basis.

This is particularly true when by our judgment we intend to review in the pending equalization case the remedies sought by the railways in the present application.

Before dealing with it more in detail I also think insofar as equalizing domestic grain rates throughout Canada is concerned, the rate scale authorized by the Board, though far from perfect and remaining subject to further review in the pending equalization case, is better calculated to bring about the desired result than the adoption of Schedule "B" as set out in the railway application.

Present and Proposed Mileage Scales

In devising a new rate scale to be applied at the present time within Western Canada there were two important factors that the Board had to take into consideration; i.e., the mileage blocks upon which such a scale is to be predicated, and the rate of progression of each block in cents per 100 lbs.

The present scale in Western Canada progresses by various mileage blocks, including 5 miles, 10 miles, 20 miles and in one or two cases by 30 miles up to 500 miles, at which point the scale continues generally in 25-mile (but sometimes 50-mile) blocks up to 1400 miles, where it then becomes 50-mile blocks up to 2200 miles (except one 100-mile block from 2000 to 2100 miles). The differences in rates per block range from $\frac{1}{2}$ cent to $1\frac{1}{2}$ cents.

The grouping and rates of the Eastern Canada scale as set forth in the application progresses in 5, 10, 20 or 25-mile blocks (and in one case a 30-mile block) up to 150 miles, and then becomes 50-mile blocks up to 2200 miles. The difference in cents per block range from 1 cent through $1\frac{1}{2}$, 2, 3, 4 or 5 cents, with an average of $2\frac{1}{2}$ cents.

At the hearing it was explained by railway witnesses that there was, in fact, no mileage scale in Eastern Canada which included rates up to 2200 miles, but that the Eastern Canada scale actually ended at 800 miles. For the purpose of making a mileage scale for application up to 2200 miles in Western Canada, rates beyond 800 miles were calculated by reverting to the basis for the mileage scale of Eastern Canada. That scale originally ran to 600 miles, but was projected on August 12, 1918, to 800 miles, by adding to each 50-mile block, a rate of 1¢ per 100 lbs; then the rates so constructed were increased by the several percentage increases which have been authorized since August 12, 1918. The rates beyond 800 miles in the new application were projected in the same manner.

The percentage increases, however, are subject to a rule prescribed by the Board relating to the disposal of fractions; e.g., a rate as increased by a percentage increase, say 30.3¢ per 100 lbs., would become 30¢ per 100 lbs. by disposal of the decimal fraction; whereas a rate of 30.6¢ per 100 lbs. would become 31¢. This disposal of fractions, repeated several times in the several percentage increases, finally results in an uneven rate of progression in cents per 100 lbs. For example, in the 50-mile block from 200 to 250 miles, the Eastern grain scale now increases by 4¢ per 100 lbs; the next 50 miles by 3¢; the next 50 miles by 4¢; the next 50 miles by 1¢; the next 50 miles by 5¢ and the next 50 miles by 2¢.

From 600 to 800 miles, the four 50-mile blocks, originally progressing by 1¢ for each block, are now 1 cent each for the first two blocks, then 4¢ for the next block and 2¢ for the final block. The scale proposed by the railways from 800 miles upwards contains a similar uneven rate of progression.

The Board considers that the grouping of the Eastern scale is not proper at this time for Western Canada. Any scale computed from 150 miles upwards in 50-mile blocks, under present conditions, must generally have a rate progression of at least 2 to 3 cents per 100 lbs. for each 50-mile block; such a scale would produce, on wheat at 60 lbs. per bushel, a difference of 1.2 or 1.8 cents per bushel between each 50-mile block. The transportation of grain from one elevator versus another is affected by a difference per bushel of a fraction of a cent, and obviously any scale which progresses at the rate of 1.2 or 1.8 cents per bushel, for each mileage block, is bound to be impractical for Western Canada.

The Board therefore reached the conclusion that the Western scale for the present should be grouped in smaller mileage blocks than in the Eastern scale, and that the rate differences per block should be as small as possible and upon a more uniform rate of progression than is the case in the Eastern grain scale.

The scale authorized in the Judgment progresses in one-cent blocks for various distances from 5 miles upwards, so that on wheat the difference between each block is only 6/10ths of a cent per bushel. The blocks vary gradually in size so as to produce a tapering effect as the scale progresses.

JOHN D. KEARNEY.

Ottawa, Ontario, October 30, 1952.

I concur:

A. SYLVESTRE.

I concur:

FRANK M. MACPHERSON.

I concur:

H. B. CHASE.

While not adopting all the reasons in the majority judgment, I concur in the resultant rate scale referred to therein by the Chief Commissioner and as set forth in the Board's decision of October 24, 1952.

HUGH WARDROPE.

ORDER No. 80250

In the matter of the application of the Canadian Freight Association, under Section 322 of the Railway Act, for approval of proposed Supplement No. 31 to Canadian Freight Classification No. 19, C.T.C. 983, on file with the Board under file No. 33365-154:

SATURDAY, the 22nd day of November, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas notice has been given by Canadian Freight Association in *The Canada Gazette*, as required by Section 332 of the Railway Act, and copies of the said Supplement have been furnished to the parties named in the General Order of the Board No. 695, with the request that their objections, if any, be filed with the Board within thirty days; no one offering any objection;

And upon reading the submissions filed—

It is ordered that the said Supplement 31 to Canadian Freight Classification No. 19, C.T.C. 983, on file with the Board under file No. 33365-154, be and it is hereby, approved.

JOHN D. KEARNEY,

Chief Commissioner.

ORDER No. 80320

In the matter of the application of the Canadian Freight Association, dated October 28, 1952, for approval of Supplement No. 4 to Agreed Charge tariff C.T.C. (AC) No. 46:

File No. 40994-35

TUESDAY, the 2nd day of December, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 4 to Agreed Charge tariff C.T.C. (AC) No. 46 be, and it is hereby, approved, and that the date from which the said Supplement No. 4 shall become operative is hereby fixed as November 1, 1952.

JOHN D. KEARNEY,

Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80120 Nov. 6—Restricting the speed of trains at C.N.R. crossing of Highway No. 9A, Lacolle, P.Q.
- 80121 Nov. 6—Amending Order No. 78484 dated March 10, 1952, *re* protection at C.P.R. crossing of Highway No. 68, White Fish Falls Station, Ont.
- 80122 Nov. 6—Permitting the removal of slow order at C.N.R. crossing of Capreol Road, Sudbury, Ont.
- 80123—Nov. 6—Requiring the C.N.R. to install protection at crossing of Highway No. 63, La Sarre, Que.
- 80124 Nov. 6—Approving proposed location of new unloading points of Shell Oil Co. Ltd. near C.P.R. tracks at Trois Rivières, Que.
- 80125 Nov. 6—Permitting the removal of slow order at C.N.R. crossing mileage 98·3, Drummondville Subdivision, Quebec.
- 80126 Nov. 6—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Chatham, N.B.
- 80127 Nov. 6—Permitting the removal of slow order at N.A. Rly. Co. crossing at mileage 45·83 Lac La Biche Subdivision, Quebec.
- 80128 Nov. 6—Permitting the removal of slow order at C.N.R. crossing of Jarvis St., Orillia, Ont.
- 80129 Nov. 6—Approving Supplement No. 2 to Agreed Charge C.T.C. (AC) No. 47 effective No. 1, 1952.
- 80130 Nov. 6—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.N.R. tracks at Auld's Cove, N.S.
- 80131 Nov. 6—Approving proposed location of storage tanks, etc., near C.P.R. tracks at Cochrane, Alta.
- 80132 Nov. 6—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near tracks of C.P.R. at Lake Louise, Alta.
- 80133 Nov. 6—Authorizing the Mun. Corp. of Village of Aston Junction, Que., to construct a public road across C.N.R. Aston Jct., Quebec.
- 80134 Nov. 6—Approving Supplement No. 10 to Agreed Charge C.T.C. (AC) No. 14 effective Nov. 1, 1952.
- 80135 Nov. 6—Permitting the removal of slow order at C.N.R. crossing of Station St., Bancroft, Ont.
- 80136 Nov. 6—Authorizing the C.P.R. to open for carriage of traffic portions of its Tobique Subdivision as relocated.
- 80137 Nov. 7—Approving proposed location of storage tanks, etc., of the C.N.R. near their tracks at Mulgrave, N.S.
- 80138 Nov. 7—Approving proposed location of storage tanks of Imperial Oil Ltd. near C.N.R. tracks at St. James, Man.
- 80139 Nov. 7—Approving proposed location of storage tanks of Imperial Oil Ltd. near C.N.R. tracks at Acadia Valley, Alta.
- 80140 Nov. 7—Requiring the C.N.R. to install protection at crossing of Highway No. 45, Village of Barraute, Que.
- 80141 Nov. 7—Permitting the removal of slow order at C.N.R. crossing of King Street, Sorel, Que.
- 80142 Nov. 7—Permitting the removal of slow order at crossing of Algoma Central and Hudson Bay Rly. Co. and Wellington St., Sault Ste. Marie, Ont.
- 80143 Nov. 8—Authorizing the C.N.R. to construct an overhead bridge over the C.N.R. at mileage 135·7 Alderdale Subdivision.
- 80144 Nov. 8—Authorizing the Saskatchewan Department of Highways & Transportation to construct its highway across the C.N.R. at mileage 19·20, Northgate Subdivision.
- 80145 Nov. 8—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at Canpa, Ont.
- 80146 Nov. 8—Authorizing the C.N.R. and N.Y.C. to operate their trains through the interlocking at crossing of C.N.R. and N.Y.C. at Yarmouth, Ont.
- 80147 Nov. 8—Permitting the removal of slow order at C.P.R. crossing of Highway No. 2 at mileage 4·9 Red Deer Subdivision, Alberta.
- 80148 Nov. 8—Authorizing the C.N.R. to construct a temporary diversion of Provincial Highway No. 6 at mileage 0·24 Rimouski Subdivision, Quebec.
- 80149 Nov. 8—Authorizing the C.N.R. to operate the bridge at mileage 15·8 Drummondville Subdivision, Quebec.
- 80150 Nov. 10—Authorizing the C.N.R. to remove the station agent at Hallboro, Man.
- 80151 Nov. 10—Authorizing the City of Quebec to extend Charest Boulevard across the C.P.R. by means of an overhead bridge at mileage 0·40 Wolfe's Cove Branch.
- 80152 Nov. 10—Directing the T.H. & B. Rly. Co. to construct a subway under its tracks where the proposed extension of Kenilworth Avenue connects with the proposed east-end mountain access road, Hamilton, Ont.

- 80153 Nov. 10—Directing the C.N.R. to construct a subway under their tracks at mileage 3·37 Hagersville Subdivision.
- 80154 Nov. 12—Approving plans showing location of the Trans-Northern Pipe Line Co. pipe line County of Peel to County of Wentworth, Ontario.
- 80155 Nov. 12—Approving plan showing location of Trans-Mountain Oil Pipe Line Co. pipe line within the North Alberta Land Registration District, Province of Alberta.
- 80156 Nov. 13—Approving certain Bell Telephone Co. tariffs filed with the Board.
- 80157 Nov. 14—Authorizing Commissioner F. M. MacPherson to sign orders, regulations and documents for the more speedy and convenient despatch of business of Board.
- 80158 Nov. 14—Authorizing the C.N.R. to operate the bridge at mileage 16·7 Campbellford Subdivision.
- 80159 Nov. 14—Approving plan showing location of Trans-Northern Pipe Line Co. pipe line in the Township of Toronto.
- 80160 Nov. 14—Authorizing the C.N.R. to operate the subway at Vandorf, Ont.
- 80161 Nov. 14—Declaring the Township of North York to be an urban municipality within the meaning of subsection 2 of Section 308 of the Railway Act.
- 80162 Nov. 14—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Don River, Township of East York, Ontario.
- 80163 Nov. 14—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Don River, Township of North York, Ontario.
- 80164 Nov. 14—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Don River, Township of East York, Ontario.
- 80165 Nov. 14—Authorizing the C.N.R. to operate bridge at mileage 14·8 Dorion Subdivision, Ontario.
- 80166 Nov. 14—Authorizing Trans-Northern Pipe Line Co. to carry its company pipe line across certain highways and railways as shown on plans. (Township of Osgoode to Nepean, Ontario).
- 80167 Nov. 14—Requiring the C.N.R. to install protection at crossing of Highway No. 58 at Welland Junction, Ont.
- 80168 Nov. 14—Permitting the removal of slow order at C.N.R. crossing near station at Glencairn, Ont.
- 80169 Nov. 14—Restricting the speed of C.N.R. trains over Perry Street, Peterborough, Ont.
- 80170 Nov. 14—Restricting the speed of C.P.R. trains over High Street, Peterborough, Ont.
- 80171 Nov. 14—Authorizing the Mun. of Township of West Gwillimbury, Ont., to construct the highway across the C.N.R. at mileage 43·4 Newmarket Subdivision.
- 80172 Nov. 14—Authorizing the C.N.R. to lower fences on approaches to crossing of Woodward Avenue, Hamilton, Ont.
- 80173 Nov. 14—Approving plan showing changes at interlocking plant of C.N.R.-C.P.R. joint section at Current Junction, Ont.
- 80174 Nov. 14—Amending Order No. 47259 dated August 25, 1931, *re* protection at C.P.R. crossing north of Powell Street, Vancouver, B.C.
- 80175 Nov. 14—Amending Order No. 79539 dated August 7, 1952, *re* widening of highway at mileage 90·18 Maynooth Subdivision, Ontario.
- 80176 Nov. 14—Authorizing the Trans-Northern Pipe Line Co. to construct its company pipe line across certain highways and railways in Township of Toronto, Ont.
- 80177 Nov. 14—Restricting the speed of trains at C.N.R. crossing of West Gore Street, Stratford, Ont.
- 80178 Nov. 14—Authorizing the C.N.R. to convert the lift span of the Fraser River Bridge, Prince George, B.C., into a fixed span.
- 80179 Nov. 14—Authorizing the Town of Prescott, Ont., to construct Sophia Street across the C.N.R.
- 80180 Nov. 14—Extending time within which protection is to be installed by G.N. Rly. Co., at crossing of 13th Avenue, Vancouver, B.C.
- 80181 Nov. 14—Authorizing the C.P.R. to replace the bridge at mileage 79·17 Lachute Subdivision, Quebec.
- 80182 Nov. 14—Approving clearances at siding serving Sylvania Electric (Canada) Ltd. at Drummondville, Que.
- 80183 Nov. 14—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking near Hope, B.C.
- 80184 Nov. 15—Authorizing the C.P.R. to cut the trees in angle of the crossing in Mun. Village of St. George, Que.
- 80185 Nov. 15—Authorizing the Alberta Department of Highways to widen highway where it crosses C.N.R. at mileage 50·58 Brazeau Subdivision, Alberta.
- 80186 Nov. 15—Authorizing the C.P.R. to operate their trains over certain sidings of the Toronto Harbour Commissioners serving National Sea Products Ltd., Toronto, Ont.
- 80187 Nov. 15—Amending Order No. 78180 dated Jan. 28, 1952, *re* plan submitted to the C.N.R. *re* crude oil loading facilities at Bashaw, Alta.

- 80188 Nov. 15—Permitting the removal of slow order at C.P.R. crossing near Wapella, Sask.
- 80189 Nov. 15—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the Don River, Ontario.
- 80190 Nov. 15—Permitting the removal of slow order at C.N.R. crossing of Angle Road, near Oakville, Ont.
- 80191 Nov. 15—Permitting the removal of slow order at C.N.R. crossing near station at Longueuil, Que.
- 80192 Nov. 15—Approving proposed location pipe lines, tanks, etc., of C.N.R., Brandon, Man.
- 80193 Nov. 15—Approving proposed location of tanks, etc., of Imperial Oil Ltd., near N.A. Rlys. Co. tracks at Brownvale, Alta.
- 80194 Nov. 15—Approving proposed location of storage tank of Imperial Oil Ltd. near N.A. Rlys. Co. tracks at Eaglesham, Alta.
- 80195 Nov. 15—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near N.A. Rlys. tracks at Slave Lake, Alta.
- 80196 Nov. 15—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near N.A. Rlys. Co. tracks at Sexsmith, Alta.
- 80197 Nov. 15—Approving proposed location of storage tanks, etc. of Imperial Oil Ltd. near N.A. Rlys. Co. tracks at Fawcett, Alta.
- 80198 Nov. 15—Extending time for installation by C.P.R. of protection 85th Avenue and 104th Street, Edmonton, Alta.
- 80199 Nov. 15—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at Mimico, Ont.
- 80200 Nov. 15—Approving operation of C.N.R. trains over private siding serving Eastern Woodworkers Ltd., New Glasgow, N.S.
- 80201 Nov. 15—Permitting the removal of slow order at C.N.R. crossing near station at Causapscal, Que.
- 80202 Nov. 15—Permitting the removal of slow order at C.P.R. crossing near Diane, Sask.
- 80203 Nov. 17—Approving plan showing signals as installed between King St., Transcona, Man., and Beach Junction, Man.
- 80204 Nov. 17—Requiring the C.N.R. to install protection at crossing of Highway No. 12, near station at Brechin East, Ont.
- 80205 Nov. 17—Approving installation of facilities for storage of liquefied petroleum gases at Aylmer, Ont., for Central Pipe Line Co. Ltd. (C.N.R.)
- 80206 Nov. 17—Approving agreed charge between certain railway and steamship companies and certain oil companies on lubricating oils, greases and petroleum products effective October 1, 1952.
- 80207 Nov. 17—Authorizing the C.N.R. to remove the brush in angle of the crossing of their railway and highway, in the Parish of St. Andre, County of Kamouraska, Quebec.
- 80208 Nov. 17—Approving the joining of the C.N.R. interchange track and interchange track of the Chesapeake and Ohio Rly. Co., Sarnia, Ont.
- 80209 Nov. 17—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at Kaslo, B.C.
- 80210 Nov. 17—Restricting the speed of trains at C.P.R. crossing of Second Avenue, Port Arthur, Ont.
- 80211 Nov. 17—Permitting the removal of slow order at C.N.R. crossing at mileage 41.93 Cascapedia Subdivision, Quebec.
- 80212 Nov. 17—Restricting the speed of trains at C.N.R. crossing near Chicoutimi, Que.
- 80213 Nov. 17—Restricting the speed of C.N.R. trains at crossing of Ste. Anne Street near C.N.R. station at Chicoutimi, Que.
- 80214 Nov. 17—Permitting the removal of slow order at C.N.R. crossing of Highbury Ave., London, Ont.
- 80215 Nov. 17—Permitting the removal of slow order at C.P.R. crossing near siding at Armour, Sask.
- 80216 Nov. 17—Permitting the removal of slow order at C.P.R. crossing near station at Grand Forks, B.C.
- 80217 Nov. 17—Authorizing the C.N.R. to remove the brush at angle of crossing of Provincial Highway No. 22 in Municipality of Ascot, Province of Quebec.
- 80218 Nov. 18—Permitting the removal of slow order at C.N.R. crossing of Cascades St., St. Hyacinthe, Que.
- 80219 Nov. 18—Rescinding Order No. 78584 dated March 25, 1952, which authorized reopening of road allowance at mileage 43.8 Swift Current Subdivision, Province of Saskatchewan.
- 80220 Nov. 18—Approving plan showing changes at interlocking of the N.Y.C. and C.N.R. at Southwold, Ont.
- 80221 Nov. 19—Authorizing the C.N.R. to operate the trestles at certain mileages on its Haight Subdivision, Alberta.
- 80222 } Nov. 19—Authorizing the C.N.R. to operate trestles at mileage 10.8 Kingman Sub-
- 80223 } division, Alberta, and at Selim Hill, Ont.

- 80224 } Nov. 19—Relieving the C.P.R. from erecting cattle guards at certain highway
80225 } crossings on its cascade, Thompson and Mission Subdivisions, British
80226 } Columbia.
80227 } Nov. 19—Authorizing the C.P.R. to operate the bridge over Mackenzie River,
Ontario.
80228 Nov. 19—Approving plan showing changes in the signals at interlocking plant at
crossing of C.N.R. and C.P.R. at Ellwood, Ont.
80229 Nov. 19—Authorizing the C.N.R. to make changes in the signals of Montreal
Terminals Interlocking, Montreal, Que.
80230 Nov. 19—Approving proposed location of storage tank, etc., of C.N.R. near their
tracks at Terminal Elevator "B" at Port Arthur, Ont.
80231 Nov. 19—Approving proposed location of storage tanks, etc., of Canadian Oil Com-
panies Ltd. near C.N.R. tracks at Midland, Ont.
80232 Nov. 20—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd.
near C.N.R. tracks at Entwistle, Alta.
80233 Nov. 20—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd.,
near tracks of C.N.R. at Mayerthorpe, Alta.
80234 Nov. 20—Approving proposed location of storage tanks of Imperial Oil Ltd. near
C.P.R. tracks at Coaldale, Alta.
80235 Nov. 20—Fixing Agreed Charges approved by Order No. 77946, dated December 15,
1951, for transport by C.N.R. and C.P.R. of petroleum products described
in Paragraph B for McColl-Frontenac Oil Co. Ltd. to stations referred to
in Paragraph C(2).
80236 Nov. 20—Amending Order No. 75721 as amended by Orders Nos. 76683 and 79094 in
the matter of acceptance by railway companies from Imperial Oil Ltd. of
I.C.C. 104 tank cars.
80237 Nov. 20—Authorizing the C.N.R. to operate the trestles at certain mileages Edmonton
Terminals Subdivision, Alberta.
80238 Nov. 20—Relieving the C.P.R. from maintaining cattle guards at mileage 1.4 New
Westminster Subdivision, British Columbia.
80239 Nov. 20—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line
under the Rideau River and Canal near Ottawa.
80240 Nov. 20—Requiring the C.N.R. to install protection at C.N.R. crossing of Lansdowne
Avenue, Callander, Ont.
80241 Nov. 21—Amending Orders Nos. 73388 and 77991 *re* transportation of explosives and
other dangerous articles by freight.
80242 Nov. 21—Authorizing C.N.R. to construct a bridge over Burnt River, Ont.
80243 Nov. 21—Approving proposed locations of storage tanks, etc., of Imperial Oil Ltd.
near C.N.R. tracks at Rochester, Alta.
80244 Nov. 21—Amending Order No. 77788 dated November 22, 1951, *re* protection at
Chesapeake and Ohio Rly. Co. crossing of Second St., Sarnia, Ont.
80245 Nov. 21—Restricting the speed of trains at C.N.R. crossing of Neebing Ave., Fort
William, Ont.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

January 1, 1953

No. 19

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of British Columbia Telephone Company, dated October 22, 1952, for approval of proposed increased rates and charges.

File No. 32560-35

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

FRANK M. MACPHERSON, *Commissioner.*

Appearances:

Hon. J. W. de B. FARRIS, Q.C., SHERWOOD LETT, Q.C., A. B. B. CARROTHERS, for the Applicant.

ALFRED BULL, Q.C., for the Province of British Columbia and the following Cities, Districts, Municipalities and Villages in the said Province:

CITIES: Alberni, Courtenay, Cumberland, Duncan, Grand Forks, Greenwood, Kamloops, Kaslo, Ladysmith, Merritt, Nanaimo, Nelson, New Westminster, North Vancouver, Port Alberni, Port Coquitlam, Port Moody, Rossland, Trail, Vancouver, Victoria

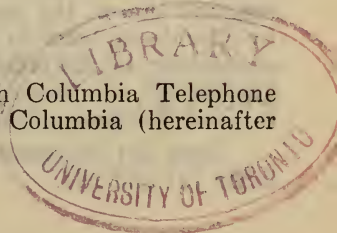
MUNICIPALITIES: Burnaby, Central Saanich, Coquitlam, Delta, Esquimalt, Fraser Mills, Kent, Langley, Maple Ridge, Matsqui, Mission, North Cowichan, North Vancouver, Oak Bay, Pitt Meadows, Richmond, Saanich, Sumas, Surrey, Tadanac, West Vancouver;

VILLAGES: Abbotsford, Castlegar, Comox, Harrison, Hot Springs, Hope, Invermere, Kinnaird, Lake Cowichan, Mission City, New Denver, North Kamloops, Oliver, Osoyoos, Parksville, Princeton, Qualicum Beach, Salmo, Silvertown, Squamish, Sidney.

JUDGMENT

KEARNEY, J., Chief Commissioner:

Under date of the 22nd October, 1952, the British Columbia Telephone Company, of the City of Vancouver, Province of British Columbia (hereinafter



referred to as the Applicant), has applied to the Board for an Order under Section 375 and all other relevant sections of the Railway Act, approving, to be effective at the earliest possible date, the revisions of certain long distance message toll and exchange service tariffs, including local pay-station service, set forth in Schedules I and II respectively, which were attached to and made part of the present application.

The total amount to be realized by the Applicant over a twelve month period, from the proposed increased schedules of rates, is estimated to be \$2,959,978.

The Applicant alleged that the success of its plans for additional financing will be dependent largely upon the 1952 results and the anticipation of improved earnings thereafter. In view of the Applicant's rapidly deteriorating financial position and the urgent necessity for additional revenues, it requested an interim hearing at the earliest possible date in order that a part of the proposed additional revenue as hereinbefore set forth may be recovered in the form of interim rates effective immediately and subject to final disposition at a later date convenient to the Board and all interested parties.

The interim application was heard on November 24, 25 and 26, 1952, at Ottawa.

In the presentation of its case counsel for the Applicant requested that, as a minimum, the Board should authorize an immediate increase in telephone tolls and rates calculated to realize during a twelve month period the sum of \$2,451,021. Both in his written reply and in argument counsel for the Respondents urged the non-necessity of an interim award but declared that if the Board saw fit to make an interim award it should be one which would be limited to realize for the Applicant something between \$800,000 and \$900,000, and was agreeable to the proposed increases in long distance and pay-station rates which would realize such sum. Counsel for the Respondents also declared that while he recognized that the Applicant should be given an opportunity of realizing some surplus the determination of the amount of such surplus should be left for decision at the final hearing.

The following is a tabulation of the five items which constitute the \$2,451,021 which the Applicant seeks by way of an interim order:

(a) Wages	\$1,031,685
(b) Municipal taxes	35,623
(c) Surplus	424,182
(d) Dividends	240,000
(e) Income tax	719,531
	<hr/>
	\$2,451,021

The Applicant pointed out that whereas in the main application it was seeking an annual additional surplus amounting to \$711,473, in the interim application it was confining itself to the sum of \$424,182 being the amount of anticipated surplus resulting from the adjustment of revenues authorized in the Board's judgment of the 4th January, 1952.

Item (d) constituted dividends at the same rate as has been paid on their issued common shares but applied to a contemplated issue of 166,000 new common shares, the issuance of which in the near future is necessary in order to provide at least in part for the extensive commitments already made and amounting to \$25,000,000 and a contemplated commitment of an additional \$18,000,000, the whole in connection with a required expansion program in order to meet the demands for improved and additional telephone service.

Item (e) represents the income tax which will be required to be paid on items (c) and (d).

After examining the evidence placed before us and after giving due weight to the arguments of Counsel for the Applicant and Respondents respectively, the Board is disposed to allow sixty-five per cent of the sum sought by the Applicant as an interim measure. This would reserve for decision at the final hearing the remaining thirty-five per cent of the interim application; or, about forty-five per cent of the sum sought in the main application.

The increase in rates as authorized herein is expected to provide increased revenues on an annual basis sufficient with something to spare to meet the most urgent needs of the company, viz., increased wage costs, applicable Provincial and Municipal taxes, and increased fixed charges. The Board is aware that the anticipated excess will fall short of providing for dividends as requested by the Applicant on the proposed stock issue of 1953, and will not result in a surplus even in the amount heretofore allowed by the Board, but these latter issues are reserved for further consideration at the final hearing.

An Order will issue permitting an increase in tolls in the manner and to the extent mentioned in the said Order which is hereto attached.

JOHN D. KEARNEY.

December 4, 1952.

I concur:

A. SYLVESTRE.

I concur:

FRANK M. MACPHERSON.

ORDER No. 80334

In the matter of the application dated October 22, 1952, of the British Columbia Telephone Company, hereinafter called the Applicant, under Section 375 of the Railway Act, for an interim Order authorizing and approving increased rates and charges in long distance message toll service and exchange tariffs:

File No. 32560-35

THURSDAY, the 4th day of December, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the request of the Applicant for an interim Order at the sittings of the Board, held at Ottawa on November 24, 25 and 26, 1952, in the presence of Counsel for the Applicant and for the Province of British Columbia and other respondents, and upon reading the written submissions filed:

It is ordered that

1. To the extent hereinafter stated, increased rates and charges of the Applicant as set out in its application dated the 22nd October, 1952, are hereby authorized and approved:

(a) *Long Distance Message Toll Service, Sheets 3 and 4, Schedule I:*

Rates and charges as proposed by the Applicant.

(b) *Private Line Service—Short Period. Item 175, Sheets 24 and 25 of Schedule II:*

Rates and charges as proposed by the Applicant.

(c) *Move and Change Charges. Item 160, Sheet 21, Schedule II:*

Charges as proposed by the Applicant.

(d) *Service Connection Charges. Item 165, Sheet 22, Schedule II:*

Charges as proposed by the Applicant.

(e) *Semi-public Telephone—minimum daily charges. Item 190, Sheet 26, and Item 70, Sheet 3, Schedule II:*

Rate Group	Minimum daily charge
1	\$.16
2 .....	.17
3 .....	.18
4 .....	.20
5 .....	.22
6 .....	.23
7 .....	.24
8 .....	.26
9 .....	.29
10 .....	.32

(f) *Private Branch Exchange Service—Hotel. Item 105, Sheets 11 and 12, Schedule II:*

	<i>Rate per month</i>
B. (1) Switchboard rates	
(a) Magneto Switchboard	\$ 6.05
(b) Common Battery Switchboards:	
(i) Cordless type:	
4 Trunks and 10 local lines.....	10.85
4 Trunks and 16 local lines.....	12.10
(ii) Cord type—non-multiple:	
Per position, including station line equipment,	
10 Trunks and 40 local lines.....	12.10
15 Trunks and 320 local lines....	18.10
(iii) Cord type—multiple:	
Per position,	
30 Trunks and 360 local lines....	54.35

(g) *All other exchange service rates and charges, set out in Schedule II, and not otherwise specified herein:*

Where the increase in rate or charge proposed by the Applicant is:

The increase authorized hereby is:

\$.10 or less	\$.05
.15 and not over .25 .....	.10
.30 and not over .40 .....	.15
.45 and not over .55 .....	.20
.60 and not over .70 .....	.25
.75 and not over .85 .....	.30
.90 and not over 1.00 .....	.35
1.05 and not over 1.10 .....	.40
1.15 and not over 1.25 .....	.45
1.30 and not over 1.40 .....	.50
1.50 and not over 1.55 .....	.55
1.60 and not over 1.70 .....	.60
1.80 .....	.65
1.90 and not over 2.00 .....	.70
2.15 and not over 2.25 .....	.80
2.75 and not over 2.85	1.00
2.90	1.05
3.35	1.20
4.80	1.70
5.75	2.05
6.70	2.35
8.60	3.05

2. Tariff schedules published in accordance with this Order may be filed on not less than three days' notice, and shall bear notation thereon:

"Issued under authority of, and approved by, Order No. 80334, dated December 4, 1952, of the Board of Transport Commissioners for Canada."

3. The requirements of General Order No. 658 as to indication of changes in tariffs by the use of symbols, are hereby waived.

JOHN D. KEARNEY,
Chief Commissioner.

In the matter of the application of the City of Hamilton for an Order authorizing it to re-construct the bridge over the railway of the Toronto, Hamilton & Buffalo Railway Company, at Main Street West, in the said City:

File No. 29688

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

HEARD at Hamilton, Ontario, November 4, 1952.

Appearances:

A. J. POLSON, Q.C., for the City of Hamilton.

H. SOULE, for the Toronto, Hamilton & Buffalo Railway.

JUDGMENT

CHASE, Commissioner:

This is an application of the City of Hamilton for an Order authorizing it to re-construct the bridge over the railway of the Toronto, Hamilton & Buffalo Railway Company at Main Street West in the City of Hamilton.

In 1896 the Toronto, Hamilton & Buffalo Railway crossed Main Street West in Hamilton with a double track line of their railway. The crossing was in a cut thus severing the street and an overhead bridge was constructed by the Railway to carry the street traffic. Upon application of the Railway, this bridge was re-constructed in 1920, the authorization for which was covered by the Board's Order No. 29378, dated the 20th day of February, 1920. At this time, the two abutments which were of good masonry construction were not replaced, and only the portion above the abutments was re-constructed.

The superstructure was replaced at this time by steel I-beams encased in concrete, with a concrete base above which was placed a wearing surface coat. All costs of the original bridge and also the re-construction of the new bridge, including maintenance costs, were placed against the railway company, with the exception of the wearing surface, which costs, both of construction and maintenance, were borne by the City. The present bridge has a roadway width of 30 feet, with one six-foot sidewalk on the south side, giving an overall width, including guard rails, of 37 feet 10 inches.

This bridge was constructed to carry H-20 loadings, which is standard practice for highway bridges in Ontario. There are slightly less than standard clearances, both side and overhead, but this is not a serious matter in this location, as the controlling clearances are at the Hamilton tunnel near-by, which clearances, both side and overhead, are more restricted.

Main Street now carries very heavy traffic, being one of the principal traffic lanes of the city, and it is expected that this traffic will continue to increase. The present width of the street allowance is 66 feet. The street has been widened east from Dundurn Street to a width of 50 feet between curbs, and it is planned to widen the street from Dundurn Street West over the bridge and to the city limits, to a width of 54 feet between curbs. This, to a large extent, accounts for the estimate of \$17,500.00 necessary for the grading and surfacing of the approach grades to the proposed bridge.

As part of this improvement scheme the City now proposes that a new bridge be located at this point to meet present and future traffic conditions. They propose a traffic width over the bridge of 54 feet, with two 7 foot sidewalks, which, with curbs and railing, will give an overall width of 72 feet 9 inches as against the present width of 37 feet 10 inches. The estimated cost is \$75,000.00.

The City also wishes to have the bridge carry a H-50 loading, which is unusual, but they state they wish to have one street from east to west, which will carry the exceptionally heavy loads which may from time to time be necessary in a city of heavy industry, such as Hamilton. They propose to use the present masonry abutments, which, due to the heavy loadings, will have to be reinforced on the back walls by wider footings and additional depth. The present abutments will also be extended by reinforced concrete construction, to carry the additional width of the roadway. The side clearances will be the same as at present and the overhead clearance will be approximately six inches more than at present, the overhead clearance of the old bridge being 19 feet 1 inch above the top of rail, and the new bridge 19 feet 7 inches.

The railway company at the Hearing did not dispute the City's contention that a wider bridge is necessary to take care of present and future traffic. While it contended that a bridge of H-50 loading seems rather heavy, it felt that at least any additional costs of such a bridge over one of the usual H-20 type, should be borne by the City. It approved of the plans filed with the Board by the City as safe for construction over the railway. The only point in dispute was the matter of who should bear the costs. While the Railway admitted it had some responsibility, it contended that its should be the minor share.

The present bridge is in good condition with the exception of the surfacing which is not in good repair due, no doubt, to the prospect of a new bridge. The abutments show no sign of settlement or deterioration, and are said to be good for H-20 loading for an indefinite period of years. The only repairs that have been found necessary since the re-construction in 1920 have been the patching of some of the concrete encasing the steel beams, where some slight deterioration has taken place due to engine blasts. This portion of the bridge was stated to be good for at least a further period of thirty years, under existing conditions. This unexpired life, it was estimated, would give a cash value of the superstructure of approximately \$5,400.00.

The above information was given at the hearing or later supplied by the Railway, and has been agreed to by the City as reasonable and fair.

In so far as apportionment of costs is concerned, Mr. Polson pressed that the Board should follow the principle it itself established in the *City of Hamilton v. C.P.R. & T.H. & B. Railways* (King St. Bridge Case, 1920), 25 C.R.C. 379. The headnote reads as follows:

"As a general principle when a railway company excavates and cuts away a portion of a highway, it should replace that highway by a sub-structure capable of carrying everything which the earth originally could carry, and with the same covering or surfacing which existed when the highway was severed, but any different paving or surfacing required to take care of the traffic should be provided by the municipality."

Mr. Polson also drew attention to Section 264 of the Railway Act and the language of Guthrie, C.C., in connection therewith in *Hamilton v. T.H. & B. Railway Company*, 44 C.R.C. (1935) 311 @ 323:

"Under the provisions of this section the Board has determined in many cases that where reconstruction of bridges has become necessary, the new structure must be suitable to any new traffic conditions which may have arisen, so as to afford at all times safe and adequate facilities for all the traffic passing over them."

But the Board in apportioning costs is given the widest discretion under Section 39 of the Railway Act and over the years its decisions indicate an increasing relaxation from strict adherence to former established concepts as conditions have changed; also an increasing tendency to deal with each case on its merits according to its surrounding circumstances.

While we cannot completely ignore the principle of the King St. Case in so far as it imposes an obligation upon the Railway in this case, yet it must be remembered it was decided many years ago. It was related to a different set of circumstances. In those days highways and roads were to a large extent feeders to the railways. Extensions and improvements thereto could be said to benefit the Railways. Today the picture is completely changed; in fact, almost reversed. The greater the capacity of and improvements to the highway system the more traffic is withdrawn from the railways. So today in fixing responsibility for costs in such matters as this, we must give weight to factors not involved—at least to the same degree—in past days. There has been a shifting in resultant values to the parties: And in the absence of other factors, costs should be related as nearly as possible to the benefits obtained. This consideration of changing conditions and shifting of resultant obligations is not new. Also in *Hamilton v. T.H. & B. Ry. Co.*, 44 C.R.C. (1935) 311 @ p. 325, above mentioned Guthrie, C.C., states:

"The present application raises rather pointedly a question of much concern both to the railway companies and to the public in general, namely, the rapid and increasing development of both freight and passenger traffic by means of motor-truck and motor-car in direct competition to the railways. There can be little doubt that the enormous development of this traffic in recent years constitutes the main reason for the enlargement of the high level bridge and the expansion of York St. in the City of Hamilton. Provision must certainly be made to take care adequately of this traffic, and it is generally believed that in the future motor car and truck traffic will increase rather than diminish. There can be no doubt that the competition of motor car traffic is a very serious matter for the railways, and I think it would be most unreasonable to ask either of the railways concerned in this application to make a contribution to a work which will undoubtedly tend to increase the competition to which they are subjected, both in regard to passenger and freight traffic."

In the present instance, in accordance with past principles, the Railway in those early days was quite properly called upon to construct in 1896, and reconstruct in 1920, except for surfacing the present bridge, and it is still adequate for the traffic it was designed to carry. It has a life expectancy of thirty years. Except for the surfacing, the Railway has borne the cost of maintenance of the bridge.

Now for good reasons advanced by the City, the contemplated vehicular traffic over this section of the City's street required a structure of unusual width, substantiality and capacity, to carry loads up to 50 tons as against the more usual 20 tons. Assuredly this factor is of no advantage to the Railway, but it is unquestionably an advantage to the City and the contemplated users of the structure.

The new structure will have a life expectancy of seventy-five years. This will benefit the Railway, as the present one has only thirty years. Maintenance should be less than on the old for some years. This is an advantage to the Railway.

In the light of these thoughts, we have concluded it would not be reasonable to expect the Railway to bear the sole or even major responsibility for the construction of the new bridge. The great advantages to the City and its vehicular traffic should reflect themselves in a substantial contribution towards construction and some of the burden of maintenance of the proposed bridge.

SUMMARY

As indicated herein the Department of Highways of Ontario has adopted as its standard a H-20 loading (a bridge capable of carrying a 20-ton load) for bridges constructed on its main highways.

The City desires the bridge in question to be reconstructed with a strength capable of carrying a 50-ton load and widened to the extent of some 34 feet 11 inches. The case is without precedent and in apportioning the costs the decisions rendered in other bridge cases are of little value. The costs should be distributed in accordance with the relative benefits which would accrue to the City and to the Railway after taking into account the responsibilities of both parties.

On this basis we find the City would receive the greater benefit and as it wants a stronger and wider bridge, it carries the greater responsibility.

The Railway would receive the lesser benefit and thereby carries the least responsibility. It has an asset in the present bridge estimated as amounting to \$5,400.00 and would not under ordinary circumstances be required to expend any money on re-construction of the bridge for some thirty years.

If calculated, the interest on money paid out thirty years in advance of the ordinary requirements of the Railway would amount to a considerable sum. The benefit accruing to the Railway is that it would have a new bridge with a life expectancy of seventy-five years. We think, however, that having regard to the fact that the roadway on each side of the bridge is somewhat wider than the bridge itself, some responsibility rests upon the Railway to assist financially in the widening of the bridge.

Having regard to all of the circumstances in this particular case, we are of the opinion that the costs should be apportioned as follows:—

That the Toronto, Hamilton & Buffalo Railway Company pay the sum of \$20,000.00 towards the cost of re-construction and that all other costs including the costs of re-construction of the approach roads be borne by the City of Hamilton. That the cost of future maintenance of the bridge structure be borne 50 per cent by the Railway and 50 per cent by the City of Hamilton; the City of Hamilton to pay the cost of the maintenance of the wearing surface of the bridge.

Order will go in accordance with the above division of costs, approving the application to reconstruct the proposed bridge on Main Street West over the tracks of the railway, as shown on plans Nos. M-250-B of W, Sheets Nos. 1, 1A, 2, 3, 4 and 5.

H. B. CHASE.

OTTAWA, November 25, 1952.

I concur:

HUGH WARDROPE.

ORDER No. 80254

In the matter of the application of the City of Hamilton for an Order authorizing it to re-construct the bridge over the railway of The Toronto, Hamilton & Buffalo Railway Company at Main Street West, in the said City:

File No. 29688

TUESDAY, the 25th day of November, A.D. 1952.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in the City of Hamilton, in the Province of Ontario, on the 4th day of November, 1952, in the presence of Counsel for the City of Hamilton and for The Toronto, Hamilton & Buffalo Railway Company—

It is ordered

1. That the City of Hamilton be, and it is hereby, authorized to reconstruct the bridge over the railway of The Toronto, Hamilton & Buffalo Railway Company at Main Street West, in the City of Hamilton, in the Province of Ontario, in accordance with Plan No. M-250, revised to April 1952, on file with the Board under file No. 29688.

2. That the said bridge be reconstructed in accordance with the provisions of General Order No. 589; detail plans showing the layout thereof to be submitted for the approval of an Engineer of the Board.

3. That The Toronto, Hamilton & Buffalo Railway Company pay the sum of \$20,000.00 toward the cost of reconstruction of the said bridge, and that all other costs, including the costs of reconstruction of the approach roads, be borne and paid by the City of Hamilton.

4. That the cost of future maintenance of the bridge structure be borne and paid in equal amounts by the City of Hamilton and The Toronto, Hamilton & Buffalo Railway Company; and the cost of maintenance of the wearing surface of the said bridge be borne and paid by the City of Hamilton.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 80418

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 22 to Agreed Charge Tariff C.T.C. (AC) No. 11:

File No. 40994·3

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

SATURDAY, the 13th day of December, A.D. 1952.

Upon reading the submissions filed—

It is ordered that the said Supplement No. 22 to Agreed Charge Tariff C.T.C. (AC) No. 11, with the addition of Amherstburg, London, Port Credit and Whitby, all in the Province of Ontario, to paragraph C(1) of the proposed Supplement, on file with the Board under file No. 40994·3, be, and it is hereby, approved, and that the date as from which the said Supplement No. 22 shall be deemed to have become operative is hereby fixed as November 25, 1952.

JOHN D. KEARNEY,
Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
OCTOBER, 1952

Railway Accidents	270	Killed 15	Injured 281
Level Crossing Accidents	53	Killed 28	Injured 70
Totals.....	323	Killed 43	Injured 351
		<i>Killed</i>	<i>Injured</i>
Passengers		—	29
Employees		8	248
Others		35	74
Totals.....		43	351

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NEW BRUNSWICK

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	1	1	Automobile ran into side of train. Licence: Maine 237-109.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 12-109.
1	1	2	Auto Jeep drove onto crossing in front of approaching train and was struck. Licence: N.B. C-10-537.

QUEBEC

1	2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. 20287.
1	3	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 253839.
1	—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
1	2	2	Automobile drove onto crossing in front of train backing over crossing and was struck. Licence: Que. 183-835.
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Mass. E-13621.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-36053.
1	—	1	Automobile ran into side of train. Licence: Que. 196-988.
1	—	1	Automobile ran into side of train. Licence: Que. F-35384.
1	1	—	Road Scraper stalled on crossing and was struck by train. Licence: Que. BG-4301.
1	5	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.B. 56-257.
1	—	2	Automobile drove onto crossing in front of train backing over crossing and was struck. Licence: Que. 169-366.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 214-532.
1	—	4	Automobile ran into side of standing train. Licence not given.
1	—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. F-67565.

ONTARIO

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. E-9588.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 137-CF.
1	1	—	Automobile ran into side of train. Licence: Ont. 82-FL.
1	—	1	Auto truck ran into side of train. Licence: Ont. C-74198.
1	1	—	Trailer truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-18327.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 58-H-29.
1	—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 79-N-59.

Accidents	K.	I.	
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 5-X-38.
1	—	1	Automobile drove onto crossing in front of car being kicked over crossing and was struck. Licence not given.
1	1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	4	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. CW-227.
1	—	1	Automobile ran into side of train. Licence: Ont. 9099-R.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 737-N-1.
1	3	5	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. H-13155.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 25-FM.
1	1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-98698.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. V-5839.
1	—	3	Automobile drove onto crossing in front of cars being pushed over crossing and was struck. Licence: Ont. 7447-N.
1	—	1	Auto truck struck employee who was flagging crossing.
1	—	1	Automobile ran into side of train. Licence: Ont. 143-CK.

MANITOBA

1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-4025.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 3-K-181.

SASKATCHEWAN

1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-49683.
1	—	2	Auto truck ran into side of train. Licence: Sask. C-8800.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-34-170.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 98-343.

ALBERTA

1	—	5	Automobile ran into side of train. Licence: Alta. 62-Z-73.
1	—	1	Automobile ran into side of train. Licence: Alta. 78-K-60.
1	—	2	Automobile ran into side of train. Licence: Alta. 12-J-48.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 92-B-31.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 18-R-57.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CV-32355.
1	—	1	Automobile drove onto crossing on front of tamping machine and was struck. Licence: Alta. 84-U-32.

BRITISH COLUMBIA

1	—	1	Trailer truck ran into side of train. Licence: B.C. C-74499.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Auto truck ran into side of train. Licence: B.C. C-75-399.

Of the 53 accidents at highway crossings, 42 occurred at unprotected crossings, and 11 at protected crossings. Twenty occurred after Sunrise and thirty-three after Sunset.

OTTAWA, Ont., December 12, 1952.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80246 Nov. 21—Authorizing the C.N.R. to construct a siding across McCowans Road, Township of Scarboro, Ontario.
- 80247 Nov. 21—Approving plans showing details of overhead bridge in Town of Richmond, Que. (C.N.R.)
- 80248 Nov. 22—Suspending operation of Order No. 79782, dated September 19, 1952, which directed C.P.R. to install protection at crossings of Tupper Street and Main Street, Portage la Prairie, Manitoba.
- 80249 Nov. 22—Approving plan showing proposed location of storage tank, etc., of Propane Engineering Service Ltd., near C.P.R. tracks at Calgary, Alta.
- 80250 Nov. 22—Approving Supp. No. 31 to C.F.C. No. 19, C.T.C. 983.
- 80251 Nov. 22—Approving Supp. No. 1 to Traffic Agreement between Bell Telephone Co. and the Corporation of Township of Sandwich South.
- 80252 Nov. 22—Approving under Maritime Freight Rates Act tariff filed by the C.P.R. under Section 9.
- 80253 Nov. 26—Approving plan showing automatic interlocking proposed to be installed at crossing of C.P.R. and C.N.R. at Essa North, Ont.
- 80254 Nov. 25—Authorizing the City of Hamilton to reconstruct the bridge over the T. H. & B. Rly. Co. at Main Street West, Hamilton, Ontario.
- 80255 Nov. 27—Authorizing the Trans-Northern Pipe Line Co. to operate the section of its company pipe line between Montreal and Toronto.
- 80256 Nov. 27—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near tracks of the C.P.R. at Cowley, Alberta.
- 80257 Nov. 27—Authorizing the C.N.R. to operate certain trestles on their Brule Subdivision, Alberta.
- 80258 Nov. 27—Permitting the removal of slow order at C.N.R. crossing near Port Robinson, Ontario.
- 80259 Nov. 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. tracks at St. Walburg, Sask.
- 80260 Nov. 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. tracks at Terrace, B.C.
- 80261 Nov. 27—Authorizing the C.N.R. to construct their railway across Catharine Street, St. Catharines, Ont.
- 80262 Nov. 27—Directing the C.N.R. to install protection at crossing near Rosedale, B.C.
- 80263 Nov. 27—Authorizing the C.P.R. to construct a private siding extension to serve Kaleden Co-Operative Growers' Association at Kaleden, B.C.
- 80264 Nov. 27—Requiring the C.P.R. to remove certain trees at crossing mileage 25.05 Piles Subdivision, P.Q.
- 80265 } Nov. 27—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd.
- 80266 } near C.N.R. tracks at Kipling, Sask., and Bashaw, Alta.
- 80267 Nov. 27—Permitting the removal of slow order at C.N.R. crossing near station at St. Leonard, N.B.
- 80268 Nov. 27—Approving proposed location of storage tanks, etc., of Canapini Bros. near C.P.R. tracks at Copper Cliff, Ont.
- 80269 Nov. 27—Restricting speed of train at C.N.R. crossing, Lindsay, Ont.
- 80270 Nov. 27—Restricting the speed of trains at C.N.R. crossing of Welland St., Port Colborne, Ont.
- 80271 Nov. 28—Approving under Maritime Freight Rates Act tariffs filed by Dominion Atlantic Rly. Co. under Section 9.
- 80272 Nov. 28—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and the C.P.R.
- 80273 Nov. 28—Approving proposed location of storage tank, etc., of Imperial Oil Ltd. near C.P.R. tracks at Southampton, N.B.
- 80274 Nov. 28—Requiring C.P.R. to install protection at crossing of Monaghan Road, Peterborough, Ont.
- 80275 Nov. 28—Approving Supplement to Service Station Contract between The Bell Telephone Co. and The New California Telephone Co. Ltd.
- 80276 Nov. 28—Relieving the C.P.R. from maintaining cattle guards at crossings on its Expanse Subdivision, Saskatchewan.
- 80277 Nov. 28—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and The Yarmouth Rural Telephone Co.
- 80278 Nov. 28—Authorizing the C.P.R. to reconstruct the subway under its track at mileage 102.3 Lloydminster Subdivision, Saskatchewan.
- 80279 Nov. 28—Authorizing the C.N.R. to operate certain trestles on their Wabamun Subdivision, Alberta.
- 80280 Nov. 28—Authorizing the C.N.R. to construct a sidewalk on the west side of Patton Street overhead bridge, Grimsby, Ont.
- 80281 Nov. 28—Authorizing the Grand River Rly. Co. to remove the shelters at Kingsdale and Shantz, Kitchener, Ont.

- 80282 Nov. 28—Approving Supplement and Appendix to Traffic Agreement between The Bell Telephone Co. and The Aylmer and Malahide Telephone Co. Ltd.
- 80283 Nov. 28—Authorizing the Bank of Toronto to release to the Canadian Northern Western Rly. Co. the sum of \$4,184.68.
- 80284 Nov. 28—Permitting the removal of slow order at C.N.R. crossing near station in Village of L'Islet, Que.
- 80285 Nov. 28—Authorizing the Canadian Northern Rly. Co. to extend across Sixth St. West, Drumheller, Alta., railway spur.
- 80286 Nov. 28—Relieving the C.P.R. from maintaining cattle guards at crossings at certain mileages on its Outlook Subdivision, Saskatchewan.
- 80287 Nov. 28—Approving Traffic Agreement between the Bell Telephone Co. and McKillop, Logan and Hibbert Telephone Co. Ltd.
- 80288 Nov. 28—Permitting the removal of slow order at C.N.R. crossing at mileage 2 (Beach Line) Grimsby Subdivision, Hamilton, Ontario.
- 80289 Nov. 28—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 80290 Nov. 28—Permitting the removal of slow order at C.N.R. crossing near station shelter at Valois, Que.
- 80291 Nov. 29—Restricting the speed of trains at governing approach signal at interlocker C.P.R. and C.N.R. at Essa North, Ont.
- 80292 Nov. 28—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking near Rosetown, Sask.
- 80293 Nov. 29—Rescinding Orders Nos. 79335 and 79763 *re* interlocking gauntlet track at Vaudreuil, Que.
- 80294 Nov. 29—Permitting the removal of slow order at C.N.R. crossing of Eighth Ave., Virden, Man.
- 80295 Nov. 29—Restricting the speed of trains at C.P.R. crossing of Main St., Gatineau, Que.
- 80296 Nov. 29—Permitting the removal of slow order at C.N.R. crossing near station of Drummondville, Que.
- 80297 Nov. 29—Authorizing the City of Sherbrooke, Que., to construct highway across the C.P.R. at mileage 69.6 Sherbrooke Subdivision, Quebec.
- 80298 Nov. 29—Authorizing the C.P.R. to remove top rail of fence on approaches to crossing of Church St., Val David, Que.
- 80299 Nov. 29—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at East Florenceville, N.B.
- 80300 Nov. 29—Permitting the removal of slow order at C.N.R. crossing, Curryville, N.B.
- 80301 Nov. 29—Permitting the removal of slow order at C.N.R. crossing near station at Rosaire, Que.
- 80302 Dec. 1—Permitting the removal of slow order at C.N.R. crossing near station at Nokomis, Sask.
- 80303 Dec. 1—Authorizing the C.N.R. to reconstruct bridge over Muskoka River, Ont.
- 80304 Dec. 1—Permitting the removal of slow order at C.P.R. crossing mileage 40.2 Saint John Subdivision, New Brunswick.
- 80305 Dec. 1—Approving operation of C.P.R. trains over private siding, etc., mileage 9.23 Lac du Bonnet Subdivision, Manitoba.
- 80306 Dec. 1—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at Stratford, Ont.
- 80307 Dec. 1—Permitting the removal of slow order at C.P.R. crossing near station at Russell, Man.
- 80308 Dec. 1—Authorizing the C.N.R. to construct an extension to the ore dock at Port Arthur, Ont.
- 80309 Dec. 1—Amending Order No. 80021 dated Oct. 23, 1952, *re* fencing at C.N.R. crossings Asquith Subdivision, Saskatchewan.
- 80310 Dec. 1—Authorizing the Township of McDougall, Ont., to construct a public road across the C.P.R. mileage 29.73 Parry Sound Subdivision, Ontario.
- 80311 Dec. 1—Authorizing the C.N.R. to construct their railway across Con. Road, Township of Mara, Ontario.
- 80312 Dec. 1—Authorizing the R.M. of Fort Garry, Man., to construct a road across C.N.R. at mileage 0.57 Letellier Subdivision.
- 80313 Dec. 1—*Re* protection at C.N.R. crossing near station at Melfort, Sask.
- 80314 Dec. 1—Authorizing the Canadian Northern Rly. Co. to construct Sprague Subdivision across the public roadway near Giroux, Man.
- 80315 Dec. 1—Restricting the speed of trains over C.N.R. crossing of 6th Avenue, Prince Albert, Sask.
- 80316 Dec. 1—Amending Order No. 78432 dated Feb. 29, 1952, *re* speed restriction at mileage 57.8 Bonnyville Branch.
- 80317 Dec. 1—Approving plan showing location of Trans-Northern Pipe Line Co. line, Township of Toronto, Ontario.
- 80318 Dec. 2—Authorizing the C.N.R. to operate their trains south of Central Station, Montreal Terminals, without being brought to a stop.

- 80319 Dec. 2—*Re* correction of plans, etc., in the application of Trans-Northern Pipe Line Co. for railway sidings north of Oakville, Ont.
- 80320 Dec. 2—Approving Supplement No. 4 to Agreed Charge C.T.C. (AC) No. 46 on application of the Canadian Freight Association.
- 80321 Dec. 3—Permitting the removal of slow order at C.P.R. crossing east of station at St. Vincent de Paul, Que.
- 80322 Dec. 3—Authorizing the C.N.R. to close Sterco, Alta., as an agency point.
- 80323 Dec. 3—Amending Order No. 77797 dated Nov. 22, 1951, *re* plan submitted by the N.A. Rly. Co. on behalf of Imperial Oil Ltd. *re* crude oil loading facilities at Belloy, Alta.
- 80324 Dec. 3—Restricting the speed of trains over C.P.R. crossing of 50th Avenue near station at Wetaskiwin, Alta.
- 80325 Dec. 3—Amending Order No. 79250 dated June 19, 1952, *re* crude oil loading facilities at Munson, Alta.
- 80326 Dec. 3—Approving proposed location of storage tanks of Imperial Oil Ltd. near C.N.R. tracks at Yellow Creek, Sask.
- 80327 Dec. 3—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at South Parry, Ont.
- 80328 Dec. 3—Authorizing the Ontario Department of Highways to construct the highway across the C.N.R. near station at Ostrom, Ont.
- 80329 Dec. 3—Approving plan showing protection as installed at crossing of C.N.R. and the highway at Edson, Alta.
- 80330 Dec. 3—Authorizing the Canadian Northern Pacific Rly. Co. to construct a railway spur across Prov. Govt. road allowance at Vavenby, B.C.
- 80331 Dec. 3—Extending time for installation of protection at crossing of Pembina Highway by C.N.R. Winnipeg, Man.
- 80332 Dec. 3—Authorizing the Trans Mountain Oil Pipe Line Co. to carry its company pipe line across certain railways, etc.
- 80333 Dec. 3—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 80334 Dec. 4—Authorizing certain increased rates and charges of the British Columbia Telephone Co.
- 80335 Dec. 5—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.P.R. tracks at Chipman, N.B.
- 80336 Dec. 5—Approving clearance at the siding serving Packard Electric Co. Ltd. at St. Catharines, Ont.
- 80337 Dec. 5—Authorizing The Hydro-Electric Power Commission of Ontario to construct an electrical transmission line for power transmission on and over lands of the C.N.R., Township of Norwich North.
- 80338 Dec. 5—Permitting the removal of slow order at C.N.R. crossing east of Simcoe Junction, Ontario.
- 80339 Dec. 5—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near Algoma Central & Hudson Bay Rly. Co. tracks at Michipicoten Harbour, Ontario.
- 80340 Dec. 5—Authorizing The Toronto Harbour Commissioners to construct a siding to serve lands of Lever Bros. Ltd., Toronto, Ont.
- 80341 Dec. 5—Authorizing the British American Oil Co. Ltd. to construct a pipe line under tracks of C.N.R. siding at Cannifton, Ont.
- 80342 Dec. 5—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Miniota Subdivision, Manitoba.
- 80343 Dec. 5—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in part of Lake Ontario and Burlington Canal, near Hamilton, Ont.
- 80344 Dec. 5—Approving proposed location of storage tanks of McColl-Frontenac Oil Co. Ltd. near C.N.R. tracks at Kindersley, Sask.
- 80345 } Dec. 5—Approving proposed location of storage tanks of Imperial Oil Ltd. near
80346 } C.P.R. tracks at Perth, N.B., and St. Stephen, N.B.
- 80347 Dec. 5—Permitting the removal of slow order at C.N.R. crossing of Beaugrand St., Montreal, Que.
- 80348 Dec. 5—Permitting the removal of slow order at C.N.R. crossing of Main St. near Roblin, Man.
- 80349 Dec. 5—Authorizing the Town of Pointe aux Trembles, Que., to construct 36th Avenue across the C.N.R., Town of Pointe aux Trembles, Que.

- 80350 Dec. 5—Authorizing the county of Welland, Ont., to widen the concession road where it crosses the C.N.R. east of station at Stevensville, Ont.
- 80351 Dec. 5—Directing the C.P.R. to remove the gates at crossing of Richmond St., London, Ont., and install other protection.
- 80352 Dec. 5—Authorizing the C.N.R. to make signal changes to interlocking at North Edmonton, Alta.
- 80353 Dec. 5—Permitting the removal of slow order at C.P.R. crossing in Village of Pitt Meadows, B.C.
- 80354 Dec. 5—Requiring the C.P.R. to install protection at first crossing east of station at Erickson, B.C.
- 80355 Dec. 5—Authorizing the Northern Alberta Rlys. Co. to operate trestle at mileage 123·1 Grande Prairie Subdivision, Alberta.
- 80356 Dec. 5—Permitting the removal of slow order at C.N.R. crossing of Argyle St., Caledonia, Ont.
- 80357 Dec. 5—Permitting the removal of slow order at C.N.R. crossing of Sherbrooke St., Montreal East, Que.
- 80358 Dec. 5—Approving under Maritime Freight Rates Act, tariff filed by the C.N.R. under Sections 3 and 9.
- 80359 Dec. 6—Permitting the removal of slow order at Dominion Atlantic Rly. crossing east of station at Berwick, N.S.
- 80360 Dec. 6—Approving proposed location of storage tank, etc., of Imperial Oil Ltd. near C.N.R. tracks at Fredericton, N.B.
- 80361 Dec. 6—Approving proposed location of storage tank of Imperial Oil Ltd. near C.N.R. tracks at Three Hills, Alta.
- 80362 Dec. 6—Permitting the removal of slow order at C.P.R. crossing of 63rd Avenue, Edmonton, Alta.
- 80363 Dec. 6—Approving plan *re* C.N.R. automatic signals mileages 0·00 to 20·0 Matapedia Subdivision, New Brunswick.
- 80364 Dec. 6—Permitting the removal of slow order at C.P.R. crossing first west of station at Coaldale, Alta.
- 80365 Dec. 6—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at Denver Canyon, B.C.
- 80366 Dec. 6—Authorizing the City of Kitchener, Ont., to widen Lancaster Street where it crosses the C.N.R. in Kitchener, Ont.
- 80367 Dec. 8—Approving plan showing protection at crossing of C.N.R. and Highway No. 46 at Macamic, Que.
- 80368 Dec. 8—Authorizing the Ontario Department of Highways to construct an overhead bridge over C.P.R., Township of West Ferris, Ontario.
- 80369 Dec. 8—Amending Order No. 80025 dated Oct. 24, 1952, *re* application of C.N.R. for relief from fencing at certain crossings on their Craik Subdivision, Saskatchewan.
- 80370 Dec. 8—Requiring the C.P.R. to install protection at crossing in Parish of Ste. Genevieve de Berthier, Quebec.
- 80371 Dec. 8—Authorizing the C.N.R. to shorten circuits, etc., at crossing of Park and Westcott Streets, Peterborough, Ont.
- 80372 Dec. 8—Approving Supplement to Traffic Agreement to Service Station Application between Bell Telephone Co. and The Dunsford Telephone, Light and Power Co-operative Association Ltd.
- 80373 Dec. 9—Approving plans showing location of Trans Mountain Oil Pipe Line Co. pipe line in Municipalities of Langley and Surrey, B.C.
- 80374 Dec. 9—Authorizing the Bell Telephone Co. to construct its lines of telephone along public highway in County of Kent, Ontario.
- 80375 Dec. 9—Permitting the removal of slow order at C.N.R. crossing at mileage 107·86 Yale Subdivision, British Columbia.
- 80376 Dec. 9—Authorizing the Mun. of Morin Heights, Que., to widen highway No. 30 where it crosses the C.N.R. at mileage 49·80 Montford Subdivision, Quebec.
- 80377 Dec. 9—Restricting the speed of trains over Toronto Terminals Rly. Co. crossing of Eastern Ave., Toronto, Ont.
- 80378 Dec. 9—Permitting the removal of slow order at C.P.R. crossing of Jane St., Village of Mount Dennis, Ont.
- 80379 Dec. 9—Permitting the removal of slow order at C.N.R. crossing near Village of Ferrier, Alta.

- 80380 Dec. 9—Permitting the removal of slow order at N.Y.C. Railroad Co. crossing near City of Valleyfield, Que.
- 80381 Dec. 9—Requiring the C.N.R. to install protection at crossing near station at Riviere Beaudette, Que.
- 80382 Dec. 9—Permitting the removal of slow order at N.Y.C. Railroad Co. crossing of Lake St., Huntingdon, Que.
- 80383 Dec. 9—Restricting speed of trains at C.N.R. crossing of Murdock Ave., Noranda, Que.
- 80384 Dec. 9—Permitting the removal of slow order at N.Y.C. Railroad Co. crossing near station at Woodlands, Que.
- 80385 Dec. 9—Permitting the removal of slow order at C.N.R. crossing at mileage 63·7 Gladstone Subdivision, Manitoba.
- 80386 Dec. 9—Permitting the removal of slow order at C.P.R. crossing near Village of Melville, Ont.
- 80387 Dec. 9—Authorizing the Edmonton Pipe Line Co. Ltd. to construct a natural gas pipe line across the right-of-way of the Interprovincial Pipe Line Co. in 11-50-22-W4M, Province of Alberta.
- 80388 Dec. 10—Permitting the removal of slow order at C.P.R. crossing of Talbot Ave., Winnipeg, Man.
- 80389 Dec. 11—Approving proposed location of storage tank, etc., of Maritime Pressed Metal Co., Ltd., near C.N.R. tracks at Moncton, N.B.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P., Queen's Printer and Controller of Stationery, Ottawa, 1953.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

January 15, 1953

No. 20

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 80462

In the matter of the application dated November 28, 1952, of the Railway Association of Canada on behalf of the member companies listed in Schedule "A" thereto, hereinafter called the "Applicant", under Section 325 and all other relevant sections of the Railway Act, and under Sections 3 and 9 of the Maritime Freight Rates Act, for authority to make general increases in their tolls or rates for the carriage of freight traffic on their lines in Canada:

File No. 47086

SATURDAY, the 20th day of December, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon hearing the matter at the sittings of the Board at Ottawa on December 15 and 16, 1952, in the presence of counsel for the Applicant, and of counsel for and representatives of the Provinces of Alberta, British Columbia, Manitoba and Saskatchewan; the Maritimes Transportation Commission on behalf of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland; the Canadian Industrial Traffic League; the Canadian National Millers Association; the Dominion Steel and Coal Corporation; the Manitoba Transportation Commission; the Montreal Board of Trade; the Aluminum Company of Canada and the British Columbia Lumber Manufacturers Association; and having had all exhibits analysed and verified by the Board's Bureau of Transportation Economics and the Board's Special Accounting and Financial Adviser, and upon considering the submissions filed:

It is ordered that:

1. As hereinafter stated in paragraphs numbered 2 and 3, the Applicant may increase, effective not earlier than January 1, 1953, rates and charges now in effect, and, subject to all relevant provisions of the Railway Act, those which have been filed to become effective on a subsequent date, by a Master Tariff setting out the increases herein authorized and by supplements to the tariffs involved to connect such tariffs with the Master Tariff; or alternatively, by incorporating such authorized increases in the individual rates and charges affected.

AUTHORIZED INCREASES

2. Coal and Coke:

Where present rates are:

	<i>Increase per ton</i>
Not over \$1.00 per ton.....	10 cents
Over \$1.00 and not over \$2.00 per ton.....	15 cents
Over \$2.00 per ton.....	20 cents

3. Subject to the exceptions specified in paragraph No. 4 hereof, an increase of nine (9) per cent in rates and charges in the tariffs, and for the services, specified below:

Class Rates.

Commodity Rates.

Miscellaneous railway services specified below:

Milk and Cream in passenger and freight service.

Protective Service.

Collection on delivery service.

Switching other than interswitching and intermediate interswitching.

Special freight trains.

Crane service.

Railway Equipment on own wheels.

Diversion.

Dockage.

Livestock cars—cleaning, disinfecting, partitions, slatting.

Out-of-line hauls.

Re-assembling.

Reconsignment.

Rental for special equipment.

Stop-off Charges, except the charge specified in Section 49(4) of the Canada Grain Act, of one cent for each cental, less three dollars.

Storage.

Terminal charges at Canadian ports.

Wharfage.

Yardage on livestock.

Other accessorial, terminal and special services not herein specified.

EXCEPTIONS

4. The provisions of this Order do not apply to:

- (a) carload rates on grain and grain products subject to the provisions of Section 325(5) of the Railway Act, from all points on all lines of railway west of Fort William, Ontario, to Fort William, Port Arthur, and Armstrong, Ontario;
- (b) export carload rates on grain and grain products from all Prairie points on all lines of railway to Vancouver, Prince Rupert and other British Columbia coast ports;
- (c) joint international rates (except rates on coal and coke) between Canada and the United States of America;
- (d) rates between United States points on traffic passing through Canada;
- (e) export and import rates to and from Canadian ports which are maintained on a parity with rates to or from United States ports;
- (f) demurrage charges;
- (g) minimum charges for single less than carload shipments.

DIFFERENTIALS

5. Recognized differentials via rail-water-rail routes to be preserved as far as may be practicable, even though certain rates via differential routes may be lower or higher than would otherwise prevail if such rates were subjected to the increases herein authorized.

DISPOSITION OF FRACTIONS

6. Where rates without increases are:

5 cents or lower:—

- Fractions less than $\cdot 125$, drop;
- Fractions $\cdot 125$ and under $\cdot 375$, make $\frac{1}{4}$ cent;
- Fractions $\cdot 375$ and under $\cdot 625$, make $\frac{1}{2}$ cent;
- Fractions $\cdot 625$ and under $\cdot 875$, make $\frac{3}{4}$ cent;
- Fractions $\cdot 875$ and over, make next whole cent.

Over 5 cents and not higher than 10 cents:—

- Fractions less than $\cdot 25$, drop;
- Fractions $\cdot 25$ and under $\cdot 75$, make $\frac{1}{2}$ cent;
- Fractions $\cdot 75$ and over, make next whole cent.

Higher than 10 cents:—

- Fractions less than $\cdot 5$ drop;
- Fractions $\cdot 5$ and over, make next whole cent.

The foregoing to apply whether the rates are expressed in cents per one hundred pounds or other unit, or in dollars and cents per car or other unit.

COMBINATION RATES (Other than coal and coke)

7. Where rates are made by combining separately stated rates, each factor of such combination will be increased separately. Where a rate is shown in a tariff as composed of two or more factors, each such factor will be increased separately and the increased rate will be the total of the factors so increased.

RELIEF FROM PROVISIONS OF TARIFF CIRCULAR No. 1

8. Tariff schedules issued to become effective January 1, 1953, giving effect to the provisions of this Order shall be published and filed on or before December 31, 1952, and the provisions of the Board's Tariff Circular No. 1, are hereby waived as to notice, volume of supplemental matter, approval, and form of tariffs.

CONSOLIDATION OF INCREASES

9. Increases in rates previously authorized in Order No. 78164 dated January 25, 1952, and applied by Master Tariff shall be consolidated with those herein authorized. Paragraph numbered "15" of Order No. 78164, dated January 25, 1952, is hereby rescinded.

JOHN D. KEARNEY,
Chief Commissioner.

GENERAL ORDER No. 780

In the matter of the "Regulations for the Transportation of Explosives and Other Dangerous Articles by Freight, and Specifications for Shipping Containers", approved by General Order No. 722:

File No. 1717-88-81

THURSDAY, the 11th day of December, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the "Regulations for the Transportation of Explosives and Other Dangerous Articles by Freight and Specifications for Shipping Containers", be, and they are hereby, amended by inserting the following specification immediately after Specification 23G on page 133:

"Specification 23H

FIBREBOARD BOXES

1. *Compliance.*—(a) Required in all details.

2. *Definitions.*—(a) Terms such as "200-pound test" mean minimum strength, Mullen or Cady test.

(b) "Joints" are where edges of parts of box are connected together in setting up box.

(c) "Seams" are where edges of parts of box are visible, except joints, when box is closed.

3. *Solid fibreboard.*—(a) To be 3-ply or more; both outer plies waterproofed. Each ply at least 0.016".

4. *Stitching staples.*—(a) Of steel wire, copper-coated or equivalent in non-sparking quality, at least $\frac{3}{32}$ " x 0.019" or equal cross section, formed into staples about $\frac{7}{16}$ " wide.

5. *Tape.*—(a) Pressure sensitive, paper backed. The basic weight of the paper shall be not less than 70 pounds per ream after sizing and coating. Longitudinal tensile strength shall be not less than 50 pounds per inch of width and the latitudinal strength shall be not less than 11 pounds per inch of width, or for vertical application as provided by Sec. 12 tape must be pressure sensitive, filament reinforced. Tape backing shall have a minimum longitudinal tensile strength of 160 pounds per square inch of width and a minimum elongation of 12 per cent at break. The tape shall have sufficient transverse strength to prevent ravelling or separation of the filaments. Tape shall have an adhesion of 18 ounces per inch of width minimum when tested according to acceptable methods. Tape shall adhere immediately and firmly to fibreboard surface when applied with hand pressure in the temperature range of 0° to 120° F. No solvent or heat shall be necessary to activate the adhesive.

(b) The tape authorized by paragraph (a) of this section must be manufactured of material which will not separate or delaminate when submerged in water for 72 hours and which will not show any delamination or bleeding up to 160° F. and which will not lose its strength, delaminate or become brittle at 0° F.

6. *Test*.—(a) Acceptable board must have prescribed strength, Mullen or Cady test, under test as follows:

(1) Clamp board firmly in machine and turn wheel thereof at constant speed of approximately 2 revolutions per second.

(2) Six punctures required, 3 from each side; all results but one must show prescribed strength.

(3) Board failing may be retested by making 24 punctures, 12 from each side; when all results but 4 show prescribed strength the board is acceptable.

7. *Type authorized*.—(a) Of solid fibreboard, telescoping type construction without recessed heads. Box to consist of top and bottom sections, divided equally or unequally, and inner lining tube. The lining tube must be staple stitched to the lower section of the box to give in effect a 2-piece box.

8. Inside packing and size limits. (a) As prescribed in Sec. 11.

9. *Forming*.—(a) Parts must be cut true to size and so creased and slotted as to fit closely into position without cracking, surface breaks, separation of parts outside of crease, or undue binding.

10. *Joints*.—(a) Lapped at least $1\frac{1}{2}$ "; staple stitched at $2\frac{1}{2}$ " intervals and within 1" of each end of joint; 2 banks of staple stitches in each joint.

11. Authorized gross weight (when packed) and parts required. (a) Box to be of solid fibreboard, special waterproofed at least 300-pound test, and weighing at least 250 pounds per thousand square feet. Tubes to be of solid fibreboard at least 200-pound test and of 1 piece with adjoining edges staple stitched or taped.

(b) Authorized gross weight: 65 pounds when two or more lining tubes are used to divide the box into two or more compartments; 65 pounds when one or more lining tubes are used and contents will consist of one cartridge only or of black powder in bags; 35 pounds in all other cases except that boxes having a single solid fibreboard lining tube at least 0.120 inch thick are authorized for 65 pounds gross weight.

12. *Closing for shipment*.—(a) The upper and lower sections of the container shall be secured together by the application of one single strip of tape not less than 1" wide, exclusive of manufacturer's joint disposed entirely around the perimeter of the container and spaced approximately equally distant over each portion of the container at the seam of abutting covers. The ends of the tape around the perimeter of the container must overlap $1\frac{1}{2}$ " minimum. The container may alternately be closed by using tape as specified in Section 5(a) for vertical application. When closed by this method, the cover of the container shall be secured to the bottom by application of single strips of tape, not less than $\frac{1}{2}$ " wide, to the sides and in a vertical manner; two strips, one on each side for containers 18" in length or under; four strips, two on each side, minimum for containers over 18" in length. The taping shall start within 1" of the top-side score and extend to within 1" of the side-bottom score and in no case shall the strips be less than 4" in length.

(b) Tape used in closing must be at least equal in efficiency to that used on boxes passing the drum test prescribed in Sec. 16.

13. *Marking.*—(a) On each container. Symbol in rectangle as follows:

BTC—23H * *

(1) Stars to be replaced by authorized gross weight (for example BTC-23H35 or BTC-23H65). This mark shall be understood to certify that the container complies with all specification requirements.

(2) Name and address of plant making the container; symbol (letters) authorized if recorded with the Bureau of Explosives. This mark to be located just above or below the mark specified in paragraph (a) of this section.

(3) Size of markings. At least $\frac{1}{2}$ " high.

14. *Special Tests.*—(a) By whom and when. By or for each plant making the boxes; at beginning of manufacture and at 6-month intervals thereafter; on largest size, by weight, above and below 35 pounds gross. Report of results, with all pertinent data, to be maintained on file for one year; copy to be filed with the Bureau of Explosives.

15. *Material.*—(a) Box material (special waterproofed board) must be 300-pound test board and weigh at least 250 pounds per thousand square feet when commercially dry.

(b) Box material must also have 200-pound test strength and moisture content not over 30 per cent as follows:

(1) Immediately after exposure for 3 days to 90 per cent humidity at 75° F.

(2) Immediately after it has been in contact with water for 3 hours under 3" head at 75° F.

16. *Completed Containers.*—(a) Samples must pass the following immediately after exposure for 2 weeks to 90 per cent humidity at 75° F.; loaded containers shall contain dummy contents of shape and weight of the expected contents, and shall be closed in same manner as for shipment.

(1) Three loaded samples to be tested. Each must withstand 200 drops in standard 7-foot revolving test drum with pointed hazard in place, without spilling any contents.

(2) Three loaded samples to be tested. Each must withstand end to end pressure of at least 500 pounds without deflection of over $1\frac{1}{2}$ ".

(3) Three empty samples to be tested. Each must withstand top to bottom pressure of at least 500 pounds without deflection of $\frac{1}{2}$ inch.

2. That the "Regulations for the Transportation of Explosives and Other Dangerous Articles by Freight, and Specifications for Shipping Containers", as amended by "Supplement No. 3", approved by General Order No. 746, dated October 6, 1950, be, and they are hereby, amended by striking out Section 61-2, sub-paragraph (a)(2), paragraph (b), sub-paragraphs (c)(1), (d)(2), and (e)(2), thereof, and substituting therefor the following:

"(a) (2) Spec. 14, 15A or 16A. Wooden boxes, or spec. 23F or 23H, fibre-board boxes, with inside containers which must be cartridges not exceeding 12 inches in diameter or 50 pounds in weight with length not to exceed 36 inches, or bags not exceeding 50 pounds each securely closed so as to prevent leakage therefrom. Gross weight of wooden boxes not to exceed 75 pounds and gross weight of fibreboard boxes not to exceed 65 pounds.

(b) High explosives (dynamite) containing 10 per cent or less of a liquid explosive ingredient in cartridges or bags as prescribed in sec. 61 (d) and (e) may be packed in wooden boxes, spec. 14, 15A, or 16A, gross weight not to exceed 140 pounds, or fibreboard boxes, spec. 23F or 23H, gross weight not to exceed 65 pounds.

(c) (1) Spec. 14, 15A, or 16A. Wooden boxes, or spec. 23F or 23H, fibreboard boxes, with inside containers which must be cartridges not exceeding 4 inches in diameter or 8 inches in length, or cartridges not exceeding 5 inches in diameter or 10 inches in length, provided each such cartridge is enclosed alone, or with other cartridges in another strong paper shell and the resulting cartridge dipped in melted paraffin or equivalent material. The length of such completed cartridge shall not exceed 30 inches. Gross weight of wooden boxes not to exceed 75 pounds and gross weight of fibreboard boxes not to exceed 65 pounds.

(d) (2) Spec. 14, 15A, or 16A. Wooden boxes, or spec. 23F or 23H, fibreboard boxes, with inside containers which must be cartridges not exceeding 12 inches in diameter or 50 pounds in weight with length not to exceed 36 inches, or bags not exceeding 12½ pounds each packed with filling holes up. Gross weight of wooden boxes not to exceed 75 pounds and gross weight of fibreboard boxes not to exceed 65 pounds.

(e) (2) Spec. 23F or 23H. Fibreboard boxes.

JOHN D. KEARNEY,
Chief Commissioner.

GENERAL ORDER No. 781

In the matter of the application of the Railway Association of Canada on behalf of its member companies, hereinafter called the "Applicant Railway Companies", for amendment of General Orders Nos. 326, 527 and 529 dealing with the rate of exchange in connection with freight shipments between points in Canada and points in the United States, and for leave to publish and file through the medium of the Canadian Freight Association, on three days' notice, a tariff providing for the application to charges on international shipments of coal and coke of the same surcharge or discount as is applied to charges on other international freight shipments pursuant to General Orders Nos. 326 and 527 as amended:

Files Nos. 29674·1·2

29674·68

MONDAY, the 15th day of December, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That General Order No. 326, dated January 14, 1921, be, and it is hereby, amended by striking out the words "other than coal and coke" in the operative part of the said Order.

2. That General Orders Nos. 527, dated October 25, 1934, and No. 529, dated December 10, 1934, be, and they are hereby, amended by striking out the words "other than coal and coke, except petroleum, creosote, tar or pitch coke" in the operative part of the said Orders.

3. That the Applicant Railway Companies may publish and file through the medium of the Canadian Freight Association, on not less than three days' notice, a tariff providing for the application to charges on international shipments of coal and coke of the same surcharge or discount as is applied to charges on other international freight shipments pursuant to the said General Orders Nos. 326, 527 and 529, the said tariff to be subject to complaint and investigation as provided by the Railway Act.

FRANK M. MACPHERSON,
Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80390 Dec. 11—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.P.R. tracks at Winkler, Man.
- 80391 Dec. 11—Authorizing the C.N.R. and the C.P.R. to operate their trains through the interlocking at Ellwood, Ont.
- 80392 Dec. 11—Amending Order No. 75314 dated Oct. 4, 1950, *re* C.N.R. crossing at mileage 22·07 Cornwall Subdivision, Ontario.
- 80393 Dec. 11—Authorizing City of St. Jerome, Que., to construct Lebeau Avenue across the C.N.R., St. Jerome, Que.
- 80394 Dec. 11—Authorizing the C.N.R. to remove Slaterock, Ont., as an agency.
- 80395 Dec. 11—Authorizing Imperial Oil Ltd. to lay an 84-inch galvanized Armco Tunnel Liner enclosing ten pipes under tracks of the C.N.R. in Montreal East, Que.
- 80396 Dec. 11—Authorizing the Algoma Central & Hudson Bay Rly. Co. to replace pile trestle at mileage 286·9 Northern Subdivision, Ontario.
- 80397 Dec. 11—Authorizing the C.P.R. to operate the bridge at mileage 56·09 Bredenbury Subdivision, Manitoba.
- 80398 Dec. 11—Authorizing the C.N.R. to operate over the Yonge Street Rapid Transit Subway, Toronto, Ont.
- 80399 Dec. 11—Authorizing The Bell Telephone Co. to construct its lines of telephone along highway in the Township of Chatham, Ontario.
- 80400 Dec. 11—Directing the C.N.R. to raise the approaches to a grade of 5 per cent at crossing in Village of Hepworth, Ont.
- 80401 Dec. 11—Extending time for construction of new sidings and extension of existing siding of Toronto Harbour Commissioners to serve Ashbridge Bay Sewage Treatment Plant, Toronto, Ont.
- 80402 Dec. 12—Approving Appendix to Traffic Agreement between the Bell Telephone Co. and the Ernestown Rural Telephone Co. Ltd.
- 80403 Dec. 12—Approving plan showing location of Trans Mountain Oil Pipe Line Co. pipe line within the North Alberta Land Regis. District, Alberta.
- 80404 Dec. 12—Requiring the C.P.R. to install protection at first public crossing east of station at Verner, Ont.
- 80405 Dec. 12—Requiring the C.N.R. to improve the sight lines at crossing at mileage 24·6 Newmarket Subdivision, Ontario.
- 80406 Dec. 12—Permitting the removal of slow order at C.N.R. crossing first north of station at Brechin East, Ont.
- 80407 Dec. 12—Authorizing the C.P.R. to operate the bridge over the Ottawa River at mileage 0·85 Temiskaming Subdivision, Ontario.
- 80408 Dec. 12—Relieving the C.P.R. from erecting cattle guards at crossings on its Emerson Subdivision, Manitoba.
- 80409 Dec. 12—Authorizing the Township of Holland, Ontario, to construct a diversion of road allowance between Township of Glenelg and Holland, Ont.
- 80410 Dec. 12—Requiring that railway companies subject to the jurisdiction of the Board shall publish and file tariffs effective on January 1, 1954, giving effect to the rate changes required by the Judgment dated December 12, 1952, subject to objection in interval.
- 80411 Dec. 12—Relieving the C.P.R. from erecting cattle guards at highway crossing at mileage 14·83 Minnedosa Subdivision, Manitoba.
- 80412 Dec. 12—Authorizing the C.P.R. to make changes to the signals at the interlocking at crossing of C.N.R. at Essa South, Ont.
- 80413 Dec. 12—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.P.R. tracks at Yellow Grass, Sask.
- 80414 Dec. 13—Approving operation of C.P.R. trains over private siding serving Desruisseau & Rheault Ltd., Sherbrooke, Que.
- 80415 Dec. 13—Directing the C.N.R. to provide a temporary connection with tracks of Pacific Great Eastern Rly. Co. at Prince George, B.C.
- 80416 Dec. 13—Approving plan of standard timber trestles of Quebec North Shore & Labrador Rly. Co.
- 80417 Dec. 13—Authorizing the Ontario Department of Highways to construct an overhead bridge over C.N.R. at mileage 56·29 Uxbridge Subdivision.
- 80418 Dec. 13—Approving Supp. No. 22 to Agreed Charge Tariff C.T.C. (AC) No. 11 to paragraph C(1) of the proposed supplement.

- 80419 Dec. 13—Approving plan showing location of the Trans Northern Pipe Line Co. pipe line in Township of Edwardsburg, Ont.
- 80420 Dec. 15—Authorizing the C.N.R. to remove trees at crossing mileage 25.6 Danville Subdivision, Quebec.
- 80421 Dec. 15—Permitting the removal of slow order at Great Northern Rly. crossing at Venables St., Vancouver, B.C.
- 80422 Dec. 15—Permitting removal of slow order at C.N.R. crossing near Village of South Durham, Que.
- 80423 Dec. 15—Approving proposed location of storage tank of Imperial Oil Ltd. near C.P.R. tracks at Assiniboia, Sask.
- 80424 Dec. 15—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd. near C.P.R. tracks at St. Claude, Man.
- 80425 Dec. 15—Permitting the removal of slow order at C.P.R. crossing in Town of Stavely, Alberta.
- 80426 Dec. 16—Restricting the speed of trains over C.N.R. crossing of 97th Street, Edmonton, Alta.
- 80427 Dec. 15—Relieving the C.N.R. from erecting right-of-way fencing at certain mileages on its Craik Subdivision, Saskatchewan.
- 80428 Dec. 16—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 80429 Dec. 16—Approving proposed location of storage tank of Imperial Oil Ltd. near C.P.R. tracks at Clandonald, Alta.
- 80430 Dec. 16—Approving operation of N.A. Rlys. Co. trains over private sidings serving Imperial Oil Ltd. at McMurray, Alta.
- 80431 Dec. 16—Requiring the B.C. Telephone Co. to transfer Cloverdale Exchange from Group No. 4 to Group No. 5.
- 80432 Dec. 17—Relieving the C.N.R. from erecting fences at certain crossings on their Elrose Subdivision, Saskatchewan.
- 80433 Dec. 17—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney & Louisburg Rly. Co. under Section 9.
- 80434 Dec. 17—Amending Order No. 79055 dated May 27, 1952, approving tolls published in Tariff C.T.C. No. E 4014 filed by the C.N.R.
- 80435 Dec. 17—Authorizing the Canadian Northern Rly. Co. to construct an additional track across Railway Ave., North Battleford, Sask.
- 80436 Dec. 17—Approving clearances between the water stand pipe and the westward main track of the C.N.R. at Brantford, Ont.
- 80437 Dec. 18—Authorizing the C.N.R. to construct an additional railway track along 121st Street, Edmonton, Alta.
- 80438 Dec. 18—Authorizing the C.N.R. to construct an additional railway track along 121st Street, Edmonton, Alta.
- 80439 Dec. 18—Authorizing the Ontario Department of Highways to construct Highway No. 11 across the C.N.R. County of Simcoe, Ontario.
- 80440 Dec. 18—Authorizing the C.N.R. to construct Panet Road across McArthur Cut-off, St. Boniface, Man.
- 80441 Dec. 18—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 80442 Dec. 18—Authorizing the C.N.R. to construct Panet Road across their Old Beach Line, St. Boniface, Man.
- 80443 Dec. 18—Approving location and details of station to be erected by C.N.R. at Margo, Sask.
- 80444 Dec. 18—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and The Welland County Telephone Co. Ltd.
- 80445 Dec. 18—Authorizing the Imperial Oil Ltd. to construct a crude oil pipe line under C.P.R. tracks in vicinity of Port Moody, B.C.
- 80446 Dec. 18—Authorizing the City of Sudbury, Ont., to construct Dell Street across the C.N.R., Sudbury, Ont.
- 80447 Dec. 18—Authorizing the C.N.R. to make changes to signals, Montreal Terminals Interlocking, Montreal, Que.
- 80448 Dec. 18—Restricting speed of C.P.R. trains at crossing in Ville La Salle, Que.
- 80449 Dec. 18—Requiring the C.P.R. to install protection at crossing of Westminster Ave., Montreal Terminals, Quebec.
- 80450 Dec. 18—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Sillery, Que.

- 80451 Dec. 18—Permitting the removal of slow order at N.Y.C. Rly. Co. crossing near Kanawaki, Que.
- 80452 Dec. 19—Approving changes in automatic block signals between Shepard and Ogden, Alberta.
- 80453 Dec. 19—Restricting the speed of trains over C.P.R. crossing of 30th Street, Vernon, British Columbia.
- 80454 Dec. 19—Permitting the removal of slow order at C.P.R. crossing of Garden Street, Whitby, Ont.
- 80455 Dec. 19—Permitting the removal of slow order at M.C.R. crossing of Ontario Road, Welland, Ont.
- 80456 Dec. 19—Restricting the speed of Essex Terminal Rly. trains over Tecumseh Road, Windsor, Ont.
- 80457 Dec. 12—Requiring the C.P.R. to install protection at crossing of Highway No. 7, Locust Hill, Ont.
- 80458 Dec. 19—Authorizing the Mun. Corp. of Notre Dame de Lourdes, Que., to widen the highway where it crosses the C.P.R. north of station at Lourdes, Que.
- 80459 Dec. 19—Permitting the removal of slow order at C.N.R. crossing of Gage Avenue, Hamilton, Ont.
- 80460 Dec. 19—Permitting the removal of slow order at C.P.R. crossing near Town of Morden, Man.
- 80461 Dec. 19—Permitting the removal of slow order at L. & P.S. Rly. crossing of Thompson Road, London, Ont.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

February 1, 1953

No. 21

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, NOVEMBER, 1952

Railway Accidents	201	Killed 19	Injured 207
Level Crossing Accidents	46	Killed 14	Injured 69
Totals.....	247	Killed 33	Injured 276

	<i>Killed</i>	<i>Injured</i>
Passengers	—	25
Employees	8	177
Others	25	74
Totals.....	33	276

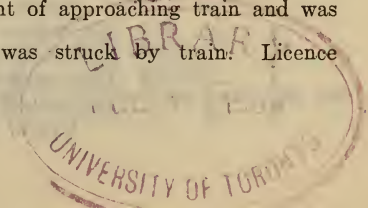
DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

<i>Accidents</i>	<i>K.</i>	<i>I.</i>
1	—	2 Automobile ran into side of train. Licence: N.S. 97246.

QUEBEC

1	—	1 Bicycle drove onto crossing in front of approaching train and was struck.
1	—	3 Transport Tractor and float drove onto crossing in front of approaching train and was struck derailing train. Licence: Que. R-6833.
1	—	1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-5052.
1	—	1 Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 283-886.
1	5	2 Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 368-155.
1	—	1 Automobile stalled on crossing and was struck by train. Licence not given.



ONTARIO

<i>Accidents K.</i>	<i>I.</i>	
1 —	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. U-6910.
1 —	2	Automobile ran into side of train. Licence: Ont. 90-B-63.
1 —	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 21-L-19.
1 1	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 15-U-13.
1 —	2	Automobile ran into side of train. Licence: Ont. A-Z-957.
1 —	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 50-D-4.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. CE-164.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 1-DN.
1 1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1 —	1	Auto truck ran into side of train. Licence: Ont. B-30136.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 744-FK.
1 1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 6216-V.
1 —	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 96-652-C.
1 —	1	Oil truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 91-427-C.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 606-30-C.
1 1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 83-Z-45.
1 —	6	Automobile drove onto crossing in front of approaching train and was struck and thrown against second automobile which in turn was struck by train approaching from opposite direction. Licence: Ont. 471-K-4 and 311-A-2.
1 —	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 256-N-V.

MANITOBA

1 —	3	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. F-40435.
1 —	2	Automobile drove onto crossing in front of approaching track motor car and was struck. Licence: Man. 3-J-741.
1 —	3	Auto truck drove onto crossing in front of approaching track motor car and was struck. Licence: Man. F-50856.
1 1	—	Automobile drove onto crossing in front of approaching train and was struck. N.J. BA-5678.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 9-E-959.
1 —	1	Auto truck skidded onto crossing in front of approaching train and was struck. Licence: Man. F-48069.
1 —	1	Automobile drove onto crossing in front of approaching track motor car and was struck. Licence not given.
1 1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-12155.

SASKATCHEWAN

1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 24-050.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 57898.
1 —	3	Auto truck ran into side of train. Licence: Alta. CV-34649.
1 2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 98-770.

ALBERTA

<i>Accidents K.</i>	<i>I.</i>	
1 —	3	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. F-142-243.
1 —	1	Automobile ran into side of train being pushed over crossing. Licence: Alta. 68-Z-13.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 29-T-61.
1 —	2	Automobile ran into side of train. Licence: Alta. X-80783.
1 —	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 17-V-14.
1 —	1	Automobile stalled on crossing and was struck by train. Licence: Alta. 34-TN.

BRITISH COLUMBIA

1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-13399.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 2-A-179.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. J-8354.

Of the 46 accidents at highway crossings, 36 occurred at unprotected crossings, and 10 at protected crossings. Sixteen occurred after sunrise and thirty after sunset.

OTTAWA, Ont., January 10, 1953.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
DECEMBER, 1952

Railway Accidents	224	Killed 21	Injured 240
Level Crossing Accidents	60	Killed 21	Injured 76
Totals.....	284	Killed 42	Injured 316

	<i>Killed</i>	<i>Injured</i>
Passengers	1	26
Employees	9	199
Others	32	91
Totals.....	42	316

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

<i>Accidents K.</i>	<i>I.</i>	
1 1 —		Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.B. C-22941.
1 —	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 3-3041.
1 —	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 3-28-44.

NEW BRUNSWICK

1 —	3	Automobile ran into side of train. Licence: N.B. 49-871.
1 —	1	Automobile ran into side of train. Licence: N.B. 40-612.
1 —	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.B. C-14-132.

QUEBEC

Accidents	K.	I.	
1	—	2	Automobile ran into side of train. Licence: Ont. 1-H-87.
1	—	1	Automobile drove onto crossing in front of train backing over crossing and was struck. Licence: Que. E-53010.
1	1	—	Automobile ran into side of train. Licence: Que. 384-868.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 198-732.
1	1	—	Automobile ran into side of train. Licence: Que. T-15026.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 13-180.
1	5	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 31-7288.
1	—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-17811.
1	—	1	Automobile ran into side of train. Licence not given.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-6545.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-1174.
1	—	2	Automobile ran into side of train. Licence: Que. 303-120.
1	—	5	Auto Bus drove onto crossing in front of approaching train and was struck. Licence: Que. A-247.

ONTARIO

1	—	1	Auto truck drove onto crossing in front of train backing over crossing and was struck. Licence: Ont. C-8-136.
1	1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 255-Y-3.
1	—	1	Automobile ran into side of train. Licence: Ont. 52-NK.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 160-CY.
1	—	1	Transport truck ran into side of train. Licence: Ont. 69-527.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 426-W-4.
1	—	2	Automobile ran into side of train. Licence: Ont. 41-26-K.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-36043.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. D-39432.
1	1	4	Automobile ran into side of train. Licence: Ont. 2-Z-358.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 153-DF.
1	—	1	Automobile ran into side of train. Licence: Ont. Y-787.
1	—	1	Automobile ran into side of train. Licence: Ont. 250-CF.
1	—	2	Auto truck ran into side of train. Licence: Ont. C-52640.
1	—	1	Automobile ran into side of train. Licence: Ont. 9-R-146.
1	—	1	Automobile ran into side of train. Licence: Ont. 48-44-Y.
1	—	1	Automobile ran into side of train. Licence: Ont. 49-P-94.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 9-K-985.
1	—	1	Automobile ran into side of train. Licence not given.

MANITOBA

1	—	1	Automobile ran into side of train. Licence not given.
1	—	1	Auto truck ran into side of train backing over crossing. Licence: Man. PG-1674.
1	—	2	Automobile ran into side of train. Licence: Man. 2-J-388.

SASKATCHEWAN

Accidents	K.	I.	
1	—	3	Automobile ran into side of train. Licence: Alta. 75-M-48.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-71-802.
1	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Truck trailer ran into side of train. Licences: B.C. C-50207, Alta. PS-11861.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 146-166.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 139-470.
1	1	—	Automobile ran into side of train. Licence: Sask. 12-202.

ALBERTA

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Automobile ran into side of train. Licence: Alta. DU-1034.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 60-E-50.
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 61-D-15.

BRITISH COLUMBIA

1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. H-3-154.
1	—	1	Automobile struck by movement being pushed over crossing. Licence: B.C. 83-273.
1	—	1	Automobile ran into side of train. Licence: B.C. T-4361.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 56-736.
1	—	1	Station Wagon drove onto crossing in front of approaching train and was struck. Licence: B.C. C-35850.

Of the 60 accidents at highway crossings, 47 occurred at unprotected crossings, and 13 at protected crossings. Twenty-three occurred after sunrise and thirty-seven after sunset.

OTTAWA, Ont., January 20, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80462 Dec. 20—Authorizing certain member companies of Railway Association of Canada to make certain general increases in their tolls or rates for the carriage of freight traffic on their lines in Canada.
- 80463 Dec. 19—Dismissing the application of Maple Leaf Milling Co. Ltd., and others *re* rates on grain products, carloads, from Port Colborne and Humberstone, Ont., milled for grain received ex-water.
- 80464 Dec. 20—Authorizing the C.P.R. and C.N.R. to operate over the interchange tracks connecting their railways in Town of Lloydminster, Sask.
- 80465 Dec. 20—Authorizing the G.N. Rly. Co. to construct a branch line to serve the Harter Lumber Co., Kootenay District, British Columbia.
- 80466 Dec. 20—Authorizing the C.P.R. to construct a private siding to serve King Paving Co. Ltd. across Haines Road, Township of Toronto, Ontario.
- 80467 Dec. 20—Approving Appendix to Traffic Agreement between The Bell Telephone Co. and La Compagnie de Téléphone de Charlevoix & Saguenay.
- 80468 Dec. 20—Approving proposed location of storage tank, etc., of Clevite Ltd., near C.P.R. tracks at St. Thomas, Ont.
- 80469 Dec. 20—Requiring the C.N.R. to install protection at crossing of Highway No. 17 near Jelly, Ont.
- 80470 Dec. 20—Relieving the C.P.R. from erecting cattle guards at certain mileages on its Winnipeg Beach Subdivision, Manitoba.
- 80471 Dec. 20—Approving proposed location of pipe line of C.N.R. near their tracks at Calder Yard, Edmonton, Alta.
- 80472 Dec. 20—Relieving the C.P.R. from erecting cattle guards at certain mileages on its Napinka Subdivision, Manitoba.
- 80473 Dec. 20—Approving proposed location of storage tank of Imperial Oil Ltd. near C.N.R. tracks at Lashburn, Sask.
- 80474 Dec. 20—Approving proposed location of storage tanks, etc., of Canada Cement Co. Ltd., near C.N.R. tracks at Fort Whyte, Man.
- 80475 Dec. 20—Authorizing City of Kitchener, Ont., to construct Union St., Kitchener, Ont., across the C.N.R.
- 80476 Dec. 22—Requiring the C.N.R. to install protection at crossing south of Brechin, Ont.
- 80477 Dec. 22—Relieving the C.N.R. from erecting fencing at certain mileages on their Asquith Subdivision, Saskatchewan.
- 80478 Dec. 22—Approving proposed locations of storage tank, etc., of C.N.R., near their tracks at Joliette, Que.
- 80479 Dec. 23—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Boissevain Subdivision, Manitoba.
- 80480 Dec. 23—Approving proposed location of storage tank, etc., of Western Uranium Cobalt Mines Ltd., near C.N.R. tracks at Skeena Crossing, B.C.
- 80481 Dec. 23—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Atikokan, Ont.
- 80482 Dec. 23—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Lyleton Subdivision, Manitoba.
- 80483 Dec. 23—Approving proposed location of storage tank, etc., of C.N.R. near their tracks at Brockville, Ont.
- 80484 Dec. 23—Permitting the removal of slow order at C.N.R. crossing of Ashland Ave., London, Ont.
- 80485 Dec. 23—Permitting the removal of slow order at C.P.R. crossing south of Bolton, Ont.
- 80486 Dec. 23—Authorizing the Ontario Department of Highways to construct its highway across the C.N.R. by means of an overhead bridge, Township of Kingston, Ontario.
- 80487 Dec. 23—Permitting the removal of slow order at C.N.R. crossing west of station at Watson, Sask.
- 80488 Dec. 23—Approving clearances at C.N.R. siding serving the Livingston Wood Mfg. Ltd., Gravenhurst, Ont.
- 80489 Dec. 23—Approving proposed location of storage tank of Imperial Oil Ltd. near C.P.R. tracks at Lower Southampton (Otis), N.B.
- 80490 Dec. 23—Approving proposed location of pipe line of Imperial Oil Ltd. near C.N.R. tracks at Bladworth, Sask.
- 80491 Dec. 30—Restricting the speed of trains at L.E. & N. Rly. Co. crossing of Mount Pleasant Road, Brantford, Ont.
- 80492 Dec. 30—Approving proposed location of storage tanks, etc., of the Canadian Oil Co. Ltd., near C.N.R. tracks at Moncton, N.B.
- 80493 Dec. 30—Permitting the removal of slow order at C.P.R. crossing near Wetaskiwin, Alberta.
- 80494 Dec. 30—Requiring the C.N.R. to install protection at crossing **near** Uptergrove, Ont.

- 80495 Dec. 30—Approving plan submitted to C.N.R. by Norfolk Propane Ltd., showing location of facilities for handling and storage of liquefied petroleum gases at Simcoe, Ont.
- 80496 Dec. 30—Approving proposed location of pipe lines, etc., of Imperial Oil Ltd. near C.P.R. tracks at Kennetconk, N.S.
- 80497 Dec. 30—Approving Traffic Agreements between the Bell Telephone Co. and The Commissioners for the Telephone System of Mun. of Twn. of Blanshard.
- 80498 Dec. 30—Authorizing the Statute Labor Board of Townships of Owens and Williamson, Ontario, to construct a public road across the C.N.R. at mileage 75·2 Kapuskasing Subdivision.
- 80499 Dec. 30—Authorizing the Trans-Northern Pipe Line Co. to operate certain sections of its company pipe line in Townships of North York and Toronto, Ontario.
- 80500 Dec. 30—Authorizing the Mun. of Town. of Magog to construct a road across the C.P.R. at mileage 81·42 Sherbrooke Subdivision, Quebec.
- 80501 Dec. 30—Permitting the removal of slow order at C.N.R. crossing near Armstrong, Manitoba.
- 80502 Dec. 30—Approving proposed location of storage tanks, etc., of Imperial Oil Ltd., near C.N.R. tracks at Victoriaville, Que.
- 80503 Dec. 30—Permitting the removal of slow order at C.N.R. crossing east of City of Lloydminster, Sask.
- 80504 Dec. 30—Approving Supp. No. 1 to Service Station Contract between The Bell Telephone Co. and the Alice Telephone Co. Ltd.
- 80505 Dec. 30—Approving proposed location of storage tank, etc., of City Ice Service near C.N.R. tracks at Brantford, Ont.
- 80506 Dec. 30—Restricting the speed of trains over C.N.R. crossing of 104th Avenue, Edmonton, Alta.
- 80507 Dec. 30—Authorizing the Edmonton Pipe Line Co. Ltd. to construct a gas pipe line across the Interprovincial Pipe Line Co. in 10-36-49-R. 22-W4M., Alberta.
- 80508 Dec. 30—Authorizing the Dominion Tar & Chemical Co. Ltd. to construct a pipe line under C.N.R. tracks, Toronto, Ont.
- 80509 Dec. 30—Amending Order No. 80296, dated November 29, 1952, *re* C.N.R. crossing near station at Drummondville, Que.
- 80510 Dec. 30—Approving operation of C.P.R. trains over private siding across lane in City of Red Deer, Alta.
- 80511 Dec. 30—Authorizing the C.P.R. to make signal changes to the interlocking at crossing of the C.N.R. at West Toronto, Ont.
- 80512 Dec. 30—Dismissing the application of the C.P.R. for the purpose of increasing the amount of contributions of City of Galt, Ont., for maintenance and operation of gates at crossing of Dundas Street.
- 80513 Dec. 30—Requiring the Bell Telephone Co. to transfer certain exchanges from one group to another.
- 80514 Dec. 30—Authorizing the CNR to take possession of, jointly with others, tracks and facilities of Great Northern Rly. Co., C.P.R. and The Burrard Inlet Tunnel and Bridge Co., presently used by National Harbors Board, in cities of Vancouver, North Vancouver and District of North Vancouver, B.C.
- 80515 Dec. 30—Approving By-law of Township of Stanfort, Ontario, *re* sounding of engine whistles.
- 80516 Dec. 30—Authorizing the Township of Seneca, Ont., to raise the approaches at crossing of Indiana Road and the C.N.R. at mileage 48·69 Dunnville Subdivision.
- 80517 Dec. 30—Authorizing the Township of Seneca, Ont., to raise the approaches at crossing of Stoney Creek Road and C.N.R. at mileage 53·64 Dunnville Subdivision.
- 80518 Dec. 30—Authorizing Township of Seneca, Ont., to improve the sight lines at C.N.R. crossing at mileage 54·42 Dunnville Subdivision.
- 80519 Dec. 31—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Lenore Subdivision, Manitoba.
- 80520 Jan. 2—Approving proposed location of storage tank of Imperial Oil Ltd. near C.N.R. tracks at Campbellton, N.B.
- 80521 Jan. 2—Approving appendix to Traffic Agreement between The Bell Telephone Co. and La Corp. de Téléphone de Québec.
- 80522 Jan. 2—Approving proposed clearances of the canopy on building located on Canadian Industries Ltd. siding at Lambton Park, Alta.
- 80523 Jan. 2—Authorizing the Manitoba Department of Public Works to construct its highway across the C.N.R. at mileage 72·35 Cowan Subdivision.
- 80524 Jan. 2—Permitting the removal of slow order at C.P.R. crossing near Boharm, Sask.
- 80525 Jan. 2—Permitting the removal of slow order at C.N.R. crossing near station at St. Jean Chrysostome Village, Que.
- 80526 Jan. 2—Permitting the removal of slow order at C.P.R. crossing in Town of Stony Mountain, Man.

- 80527 Jan. 3—Restricting the speed of trains over C.N.R. crossing of Lilac St., Winnipeg, Manitoba.
- 80528 Jan. 3—Permitting removal of slow order at C.P.R. crossing of McLaughlin St., Arnprior, Ont.
- 80529 Jan. 3—Permitting the removal of slow order at Esquimalt and Nanaimo Rly. crossing near station at Westholme, B.C.
- 80530 Jan. 3—Permitting the removal of slow order at C.P.R. crossing at Castleford, Ont.
- 80531 Jan. 3—Amending Order No. 61994, dated March 14, 1942, re opening for carriage of traffic portion of line of C.P.R. (relocated) mileage 18.01 and 22.0 Elora Subdivision, Ontario.
- 80532 Jan. 3—Restricting the speed of trains at C.N.R. crossing of Wilhelm Street, Kitchener, Ont.
- 80533 Jan. 3—Approving proposed location of storage tanks, etc., of The British American Oil Co. Ltd., near C.N.R. tracks at Gaspé, Que.
- 80534 Jan. 3—Permitting the removal of slow order at Esquimalt & Nanaimo Rly. crossing near station at Craig, B.C.
- 80535 Jan. 3—Authorizing the C.P.R. to construct an extension to its bridge west of Gull Lake, Sask.
- 80536 Jan. 5—Approving proposed location of storage tank, etc., of Blakeny & Son Ltd., near C.N.R. tracks at Moncton, N.B.
- 80537 Jan. 5—Authorizing the Grand Trunk Pacific Rly. Co. to construct a branch line in City of St. Boniface, Man.
- 80538 Jan. 5—Approving proposed locations of storage tanks, etc., of Imperial Oil Ltd. near C.N.R. tracks at Irma, Alta.
- 80539 Jan. 5—Approving plan showing location of Trans Mountain Oil Pipe Line Co. from Gosnell, B.C., to Blue River, B.C.
- 80540 Jan. 5—Authorizing the C.P.R. to construct a siding extension across Highway No. 1 near Gull Lake, Sask.
- 80541 Jan. 5—Approving proposed location of storage tanks of Imperial Oil Ltd. near the C.P.R. tracks at Medicine Hat, Alta.
- 80542 Jan. 5—Approving proposed location of storage tank, etc., of Royalite Oil Co. near C.N.R. tracks at Coleville, Sask.
- 80543 Jan. 5—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Willington Subdivision, Alberta.
- 80544 Jan. 6—Authorizing the C.P.R. to construct a portion of branch line of railway, Township of Cornwall, Ontario.
- 80545 Jan. 6—Approving operation of C.P.R. trains over private siding serving Richmond-Adelaide Lands, Ltd., Township of Scarborough, Ontario.
- 80546 Jan. 6—Requiring the C.N.R. to install protection at crossing at New Annan, P.E.I.
- 80547 Jan. 6—Requiring the C.P.R. to install protection at crossing south of station at Upper Kent, N.B.
- 80548 Jan. 6—Restricting the speed of C.P.R. trains over Prince of Wales public crossing, Ottawa, Ont.
- 80549 Jan. 6—Permitting the removal of slow order at C.N.R. crossing of Wades St., Petiteodiac, N.B.
- 80550 Jan. 6—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Vanguard Subdivision, Saskatchewan.
- 80551 Jan. 6—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Lacombe Subdivision, Alberta.
- 80552 Jan. 6—Authorizing the T.H. & B. Rly. Co. to make changes in protection at crossing of Ottawa St., Hamilton, Ont.
- 80553 Jan. 6—Authorizing the T.H. & B. Rly. Co. to make changes in the protection at crossing of Red Hill Road, Ont.
- 80554 Jan. 6—Relieving the C.P.R. from maintaining cattle guards at certain highway crossings on its Fife Lake Subdivision, Saskatchewan.
- 80555 Jan. 6—Approving proposed location of storage tank, etc., of Imperial Oil Ltd., near C.N.R. at Shediac, N.B.
- 80556 Jan. 6—Approving proposed location of storage tanks, etc., of Acme Steel Co. of Canada, Ltd., near C.N.R. tracks at Scarboro, Ont.
- 80557 Jan. 6—Restricting the speed of trains over N.S. & T. Rly. crossing of Merrittville Highway, vicinity of St. Catharines, Ont.
- 80558 Jan. 6—Permitting the removal of slow order at C.P.R. crossing of Montgomery Road, Islington, Ont.
- 80559 Jan. 6—Permitting the removal of slow order at C.N.R. crossing near station at Allenby, Que.
- 80560 Jan. 7—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Coronation Subdivision, Alberta.
- 80561 Jan. 7—Setting down application of Trans Mountain Oil Pipe Line Co. to be heard at Ottawa on February 6, 1953.

- 80562 Jan. 7—Requiring the C.N.R. to install protection at Fifth Ave. crossing, Ville St. Pierre, Que.
- 80563 Jan. 7—Directing the C.N.R. to extend the control circuits for flashing light signals at crossing near Aldershot Station, Ont.
- 80564 Jan. 7—Restricting the speed of trains over Baldwin St. crossing in Town of Barrie, Ont.
- 80565 Jan. 7—Authorizing the C.N.R. to make changes in protection at crossing of Hope and Woodstock Streets, Tavistock, Ont.
- 80566 Jan. 7—Restricting the speed of trains over C.N.R. crossing of Ellice Avenue, Winnipeg, Man.
- 80567 Jan. 8—Authorizing the Grand Trunk Pacific Rly. Co. to construct an additional track along 121st Street, Edmonton, Alta.
- 80568 Dec. 20—Permitting the removal of slow order at C.N.R. crossing near Flaxcombe, Saskatchewan.
- 80569 Jan. 8—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 80570 Jan. 8—Restricting the speed of trains over C.N.R. crossing at Chaplin Island, Newcastle, N.B.
- 80571 Jan. 8—Permitting the removal of slow order at C.P.R. crossing near town of Leduc, Alberta.
- 80572 Jan. 8—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Expanse Subdivision, Saskatchewan.
- 80573 Jan. 8—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in Riviere du Chene, Que.
- 80574 Jan. 8—Restricting the speed of C.P.R. trains at crossing of Main St., Minnedosa, Manitoba.
- 80575 Jan. 8—Restricting the speed of C.N.R. trains at crossing east of station at Barwick, Ontario.
- 80576 Jan. 9—Requiring the C.N.R. to install protection at crossing at Goodwood, Ont.
- 80577 Jan. 10—Permitting the removal of slow order at C.N.R. crossing near Paynton Siding, Sask.
- 80578 Jan. 10—Extending time for installation of protection at 13th Avenue, Vancouver, B.C.
- 80579 Jan. 10—Authorizing the Ontario Department of Highways to construct an overhead bridge over C.P.R. at mileage 65.55 Parry Sound Subdivision.
- 80580 Jan. 10—Approving proposed location of pipe lines, etc., of Shell Oil Co. near C.N.R. tracks at Belleville, Ont.
- 80581 Jan. 10—Authorizing the clearances on C.N.R. private siding at Port Daniel, Que.
- 80582 Jan. 10—Restricting the speed of Great Northern Rly. Co. trains at crossing of Georgia St., and Burrard Inlet Line, Vancouver, B.C.
- 80583 Jan. 10—Approving proposed location of storage tank near C.N.R. tracks at Courtland, Ont.
- 80584 Jan. 10—Restricting the speed of trains at N.Y.C. Rly. crossing of King Street, Hagersville, Ont.
- 80585 Jan. 10—Permitting the removal of slow order at C.N.R. crossing of Church Road, Bridgetown, N.S.
- 80586 Jan. 12—Amending Order No. 79912 dated October 6, 1952, *re* C.P.R. spur at Turner, Ont.
- 80587 Jan. 12—Authorizing the C.N.R. to install absolute permissive block signals on portion of Ashcroft Subdivision, British Columbia.

P.C. 1953-52

PRIVY COUNCIL
CANADA
AT THE GOVERNMENT HOUSE AT OTTAWA

WEDNESDAY, the 14th day of January, 1953.

PRESENT

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL:

WHEREAS the railway-highway crossing problem in Canada as a result of expanding motor vehicle traffic and improved highways has become one of national concern in respect of the present need for protection, safety and convenience of the public;

AND WHEREAS it is deemed to be in the public interest that an inquiry be made into all matters involved in the problem of railway-highway crossings which come under the jurisdiction of the Parliament of Canada;

AND WHEREAS section 38 of the Railway Act provides that the Governor in Council may at any time refer to the Board of Transport Commissioners for a report, or other action, any question, matter or thing arising or required to be done under the Railway Act or any other Act of the Parliament of Canada.

THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Transport and under and by virtue of section 38 of the Railway Act, is pleased to direct and doth hereby direct that the Board of Transport Commissioners for Canada make an investigation and report on all phases of the problem of railway-highway crossings which are under the jurisdiction of the Parliament of Canada in respect of the present and prospective need for the protection, safety and convenience of the public, and without limiting the generality of the foregoing the Board shall

- (a) conduct a survey and report on the methods considered by the Board to be practicable under all pertinent circumstances of eliminating the hazards and improving the public convenience and the protection and safety of the public at such crossings;
- (b) review and report on the adequacy of the Railway Grade Crossing Fund to provide for the construction of works for the protection, safety and convenience of the public in respect of railway-highway crossings; and
- (c) make such recommendations as the Board may deem advisable in the premises.

The Minister of Transport.

J. W. PICKERSGILL,
Clerk of the Privy Council.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

February 15, 1953

No. 22

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER NO. 80648

THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

In the matter of Agreed Charge between certain railway companies, steamship companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, which agreed charge was approved by Order No. 80206, dated November 17, 1952:

File No. 40994-38

TUESDAY, the 20th day of January, A.D. 1953.

Whereas White Star Refining Company Limited has made application under subsection 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its Lubricating Oils, Greases and Petroleum Products shipped from Clarkson's, Sarnia and Toronto, Ontario, and Montreal, Quebec, to stations and/or places in the Provinces of Alberta, Manitoba, Ontario and Saskatchewan, and has agreed to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the Agreed Charge approved by Order No. 80206, dated November 17, 1952, be, and it is hereby, fixed for the transport of lubricating oils and greases, in tank cars, and petroleum products, in packages, as described in paragraph B of the said Agreed Charge, by the railway companies and steamship Companies which are parties thereto, from Clarkson's, Sarnia, and Toronto, Ontario, and Montreal, Quebec, to railway stations and/or destinations in the Provinces of Alberta, Manitoba, Ontario and Saskatchewan, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid, is to come into operation.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER NO. 80694

In the matter of the application dated December 30, 1952, of the Canadian National Telegraphs, and the Canadian Pacific Railway Company, Communications Department, hereinafter referred to as the "Applicants", for approval of revised tariffs schedules providing for increase in telegraph tolls between points in Canada:

File No. 10041.88

SATURDAY, the 24th day of January, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon consideration of the application, and without prejudice to subsequent review upon complaint:

It is ordered that the undermentioned tariff schedules of the Applicants be, and they are hereby, approved, to become effective February 1, 1953:

<i>Canadian National Telegraphs</i>		<i>Canadian Pacific Rly. Co. Communications Department, C.T.C. No. 33</i>	
<i>C.T.C. No. 131</i>		<i>C.T.C. No. 33</i>	
4th Revised page	1	4th Revised page	1
2nd Revised page	8	2nd Revised page	11
2nd Revised page	9	2nd Revised page	12
2nd Revised page	10	2nd Revised page	12A
2nd Revised page	17	2nd Revised page	20
2nd Revised page	18	2nd Revised page	21
2nd Revised page	19	2nd Revised page	22
2nd Revised page	20	2nd Revised page	23
3rd Revised page	21	3rd Revised page	24
2nd Revised page	35	2nd Revised page	38
2nd Revised page	36	2nd Revised page	39
2nd Revised page	36A	2nd Revised page	39A
2nd Revised page	41	2nd Revised page	44
3rd Revised page	42	2nd Revised page	44A
2nd Revised page	50	2nd Revised page	50
1st Revised page	50A	2nd Revised page	55
2nd Revised page	55	2nd Revised page	55A
2nd Revised page	65	2nd Revised page	63
2nd Revised page	66	2nd Revised page	64
2nd Revised page	67	2nd Revised page	65
2nd Revised page	68	2nd Revised page	66
3rd Revised page	69	3rd Revised page	67
2nd Revised page	84	2nd Revised page	84
2nd Revised page	88	2nd Revised page	85
2nd Revised page	89	2nd Revised page	85A
2nd Revised page	89A	2nd Revised page	98
2nd Revised page	102	1st Revised page	98A
1st Revised page	102A	2nd Revised page	98B
2nd Revised page	102B	2nd Revised page	123
2nd Revised page	111	2nd Revised page	124
2nd Revised page	112	1st Revised page	124A
2nd Revised page	113	2nd Revised page	133
1st Revised page	113A		
2nd Revised page	123		

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80588 Jan. 12—Authorizing the C.N.R. to make changes to permit installation of a turnout between the home and distant signals on their Alexandria Subdv., Prov. of Ont.
- 80589 Jan. 13—Approving proposed location of storage tanks, etc., of the **Marmaraton Mining Corp. Ltd.**, near C.N.R. tracks at Marmora, Ont.
- 80590 Jan. 13—Permitting the removal of slow order at C.N.R. crossing of Lawrence Avenue, Weston, Ont.
- 80591 Jan. 13—Approving certain tariffs of The Bell Telephone Co. of Canada.
- 80592 Jan. 13—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 80593 Jan. 13—Approving proposed location of storage tanks of Imperial Oil Ltd. near C.P.R. tracks at Gleichen, Alta.
- 80594 Jan. 13—Permitting the removal of slow order at C.N.R. crossing of Lower Middle Road, near station at Oakville, Ont.
- 80595 Jan. 13—Permitting the removal of slow order at N.Y.C.R. crossing of Lyle Side Road, near Kettle Creek Bridge, St. Thomas, Ont.
- 80596 Jan. 13—Permitting the removal of slow order at N.Y.C.R. Co. crossing near station at Aylmer, Ont.
- 80597 Jan. 13—Restricting the speed of trains at C.P.R. crossing of 106th Street, Edmonton, Alta.
- 80598 Jan. 14—Permitting the removal of slow order at Quebec Central Rly. crossing in Town of Black Lake, Que.
- 80599 Jan. 14—Authorizing the Quebec Dept. of Roads to relocate Ste. Marguerite Range Road across the C.N.R. in Parish of Ste. Philomene, Que.
- 80600 Jan. 15—Approving Traffic Agreement between The Bell Telephone Co. and The Commissioners for Telephone System of the Mun. of Amherst Island.
- 80601 Jan. 15—Approving Supplement to Traffic Agreement between The Bell Telephone Co. and Hugh B. Perry.
- 80602 Jan. 15—Approving clearances on C.N.R. tracks serving Gypsum Lime & Alabastine, Canada, Ltd., Montreal East, Que.
- 80603 Jan. 15—Authorizing the C.P.R. to use culvert over Quaker Brook, N.B.
- 80604 Jan. 15—Authorizing the Great Northern Rly. Co. to reconstruct the overhead bridge at Lakewood Drive, Vancouver, B.C.
- 80605 Jan. 15—Authorizing the C.N.R. to move the station shelter at Bellavance, Que.
- 80606 Jan. 15—Restricting the speed of trains over C.P.R. crossing of Main St., Langenburg, Sask.
- 80607 Jan. 17—Approving operation of C.P.R. trains over private siding of Canadian Industries Ltd. at Lambton Park, Alta.
- 80608 Jan. 15—Permitting the removal of slow order at C.N.R. crossing near Thornton, Ont.
- 80609 Jan. 15—Restricting the speed of trains over C.P.R. crossing of William St., London, Ont.
- 80610 Jan. 15—Permitting the removal of slow order at C.N.R. crossing near Thornton, Ont.
- 89611 Jan. 15—Amending Order No. 76281, dated March 19, 1951, re appln. of R.M. of Biggar, Sask., for authorization to construct highway across C.P.R. in S.E. 4-32-35-R13, W3M, Prov. Sask.
- 80612 Jan. 16—Approving Supplement to Service Station Contract between The Bell Telephone Co. and The Tuckersmith Mun. Tel. System.
- 80613 Jan. 16—Approving operation of C.P.R. trains over private siding serving Runnymede Iron & Steel Ltd., across Raybould St., Township of York, Ont.
- 80614 Jan. 16—Approving proposed location of pipe line, etc., of Imperial Oil Ltd., near C.N.R. tracks at Delia, Alta.
- 80615 Jan. 16—Authorizing the removal of slow order at C.N.R. crossing near station at Ste. Perpetue, Que.
- 80616 Jan. 16—Authorizing the C.N.R. to make changes in grade and bridge at mileage 546-0 Port aux Basques Subdv., Newfoundland.
- 80617 Jan. 16—Authorizing the C.P.R. to operate under concrete snowshed at mileage 95-9 Mountain Subdv., B.C.
- 80618 Jan. 16—Permitting the removal of slow order at C.N.R. crossing near Duro, Sask.
- 80619 Jan. 16—Permitting the removal of slow order at C.N.R. crossing north of station at Coniston, Ont.
- 80620 Jan. 16—Restricting the speed of trains over Oshawa Electric Rly. crossing of Rossland Road, Oshawa, Ont.
- 80621 Jan. 16—Permitting the removal of slow order at C.P.R. crossing near station at Grayson, Sask.
- 80622 Jan. 16—Approving proposed location of warehouse, etc., of Shell Oil Co. of Canada, Ltd., near C.N.R. tracks at mileage 6-56 Beachburg Subdv., Ottawa.
- 80623 Jan. 16—Approving proposed location of storage tanks, etc., of The British American Oil Co. Ltd., near C.N.R. tracks at mileage 6-56 Beachburg Subdv., Ottawa.

- 80624 Jan. 16—Permitting the removal of slow order at C.P.R. crossing near station at Agincourt, Ont.
- 80625 Jan. 16—Restricting the speed of Quebec Central Rly. Co. trains at mileage 23·91 Megantic Subdv.
- 80626 Jan. 17—Amending Order No. 78180 and rescinding Order No. 80187 re plan submitted to the C.N.R. re crude oil loading facilities at Bashaw, Alta.,
- 80627 Jan. 27—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Sec. 9.
- 80628 Jan. 17—Permitting the removal of slow order at C.N.R. crossing near station at Napance, Ont.
- 80629 Jan. 17—Authorizing the P.E.I. Dept. of Public Works and Highways to relocate their highway across the C.N.R. at mileage 42·83 Murray Harbor Subdv.
- 80630 Jan. 17—Extending time for installation of protection at C.P.R. crossing 85th Ave., and 104th St., Edmonton, Alta.
- 80631 Jan. 17—Relieving C.N.R. from erecting fencing between mileage 0·00 and 120·65 Elrose Subdv., Prov. of Sask.
- 80632 Jan. 17—Authorizing the Toronto Harbour Commissioners to construct a siding to serve Liquifuels Ltd., near Cherry St., Toronto, Ont.
- 80633 Jan. 17—Relieving the Quebec, North Shore & Labrador Rly. Co. from erecting fencing, etc., between mileage 0 and 120 across Crown Lands, Quebec.
- 80634 Jan. 17—Authorizing the N.B. Dept. of Public Works to construct its highway across the C.P.R. opposite the dam of Tobique Narrows, N.B.
- 80635 Jan. 19—Approving under Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Sec. 9.
- 80636 Jan. 19—Approving under Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Sec. 9.
- 80637 Jan. 19—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Sec. 3.
- 80638 Jan. 19—Approving under Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under Section 9.
- 80639 Jan. 19—Permitting the removal of slow order at C.N.R. crossing at mileage 41·02 Grimsby Subdivision.
- 80640 Jan. 19—Restricting the speed of trains over C.N.R. crossing of Main St., Hamilton, Ontario.
- 80641 Jan. 19—Rescinding Order No. 74501 re McColl Frontenac Oil Co. Ltd., tanks, etc., at Edmonton, Alta.
- 80642 Jan. 19—Restricting the speed of Quebec Central Rly. Co. trains at Ste. Germaine du Lac Etchemin, P.Q.
- 80643 Jan. 20—Approving location of storage tank, etc., of McColl-Frontenac Oil Co. Ltd., near C.N.R. tracks at Ottawa.
- 80644 Jan. 20—Approving proposed location of storage tank, etc., of Husky Oil & Refining Ltd., near C.N.R. tracks at Loverna, Saskatchewan.
- 80645 Jan. 20—Approving proposed location of storage tank, of Imperial Oil Ltd., near C.P.R. tracks of Gracefield, Quebec.
- 80646 Jan. 20—Authorizing the Bell Telephone Co. to construct its lines of telephone along certain highway in Township of Harwich, Ontario.
- 80647 Jan. 20—Requiring the C.P.R. to install protection at Selkirk Ave. crossing, Winnipeg, Manitoba.
- 80648 Jan. 20—Fixing Agreed Charges approved by Order No. 80206 for transport of oils and greases in tank cars, and petroleum products, in packages, from Clarkson's Sarnia, Toronto and Montreal to Western Provinces.
- 80649 Jan. 20—Authorizing the Trans-Northern Pipe Line Co. to construct its pipe line in the South Nation River.
- 80650 Jan. 20—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Isabella, Man.
- 80651 Jan. 20—Approving Supplement No. 2 to Service Station Contract between The Bell Telephone Co. and The Leith & Annan Telephone Co. Ltd.
- 80652 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Co. and The Woodford Telephone Co. Limited.
- 80653 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Co. and The Hoath Head & Grey Telephone Company Limited.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

March 1, 1953

No. 23

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

GENERAL ORDER No. 782

In the matter of examinations on Operating Rules:

File No. 43757·1

THURSDAY, the 18th day of December, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered as follows:

1. In this Order

(a) "Rule Instructor" means a person who is employed in such capacity by a railway company, or such officers as the company authorizes to instruct or examine on operating rules;

(b) "Uniform Code" means the Uniform Code of Operating Rules approved by General Order No. 750, or such Uniform Code of Operating Rules as may hereafter be approved by the Board.

Operations Governed by Uniform Code

2. No railway company shall permit any person to work in any of the occupations listed in paragraph 3 whereof the duties are governed by the Uniform Code, unless the person has written and passed to the satisfaction of the company the type of examination book of the company on operating rules that is set forth in paragraph 3 opposite the respective occupations.

*Prescribed Examination Books**3. Occupation**Type of Examination Book*

Conductor, Engineman, Train Dispatcher, Yardmaster, Yard Foreman, Snow Plow Foreman, and such other occupations as the company designates.

A

Trainman, Train Baggage-man, Fireman, Fireman Helper, Yardman, Switchtender, and such other occupations as the company designates.

B or B-1*
(See Note *re* B-1)

Telegrapher, and such other occupations as the company designates.

C

Section Foreman, Bridge Foreman, Interlocking Signalman, and such other occupations as the company designates.

D

Operations Governed by Operating Rules other than the Uniform Code

4. No railway company shall permit any person to work in any of the occupations whereof the duties are governed wholly or partly by operating rules approved by the Board other than the Uniform Code, unless the person has passed to the satisfaction of the company such examinations as are prescribed by the company.

Periodic Oral Examinations

5. (1) Every railway company shall at intervals determined by the company but not exceeding three years, commencing with the effective date of this order, by its Rule Instructors conduct an oral examination of each of its employees who is working in any of the said occupations on the operating rules under which he works.

(2) No railway company shall permit any railway employee to work in any of the said occupations who does not pass such oral examinations within the time intervals referred to in paragraph 5(1). The railway company will notify employees by bulletin or otherwise of the dates upon which the Rules Instructor will be available at the various locations to conduct oral examinations.

Filing of Examination Books

6. Two copies of each type of examination book or other written examination shall be filed with the Board within ninety days from the date of this Order, or forthwith after it is put in use hereafter, by or on behalf of the company or group of companies using it.

Record of Examinations and Issue of Certificates

7. (1) Every railway company shall maintain an examination record of each employee so examined.

(2) When an employee passes an examination a certificate to that effect shall be issued to him by the Rule Instructor.

JOHN D. KEARNEY,

Chief Commissioner.

* NOTE: Where the use of B-1 book is authorized on any railway an employee must within four months from the date of his entry into the company's service, write and pass an examination on the "B" book.

GENERAL ORDER No. 783

In the matter of regulations governing the handling of vestibule doors, platforms, curtains, guard rails, side and end gates, tail gates, chains, and bars on equipment handled on passenger and mixed trains, and General Order No. 600, dated January 7, 1941:

File No. 22338

FRIDAY, the 9th day of January, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*F. M. MACPHERSON, *Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that General Order No. 600, dated January 7, 1941, be, and it is hereby, amended by striking out the words "operating a railway by steam power" in paragraph numbered 1 of the operative part of the said Order.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 80768

In the matter of the application of the Canadian Pacific Railway Company for a licence under Section 19 of The Transport Act, 1938:

File No. 42076-24

FRIDAY, the 6th day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*O. A. MATTHEWS, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 261 be issued to the Canadian Pacific Railway Company for a period of one year commencing on the 15th day of January, 1953, licensing the following ships, namely:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Assiniboia</i>	125984	3,880
<i>Keeewatin</i>	125985	3,856

to transport passengers and/or goods by water between all ports or places in Canada on Lakes Huron (including Georgian Bay) and Superior, and their connecting waters.

HUGH WARDROPE,
Assistant Chief Commissioner.

ERRATUM

In paragraph 3 of Board's Order No. 80462 dated December 20, 1952, published on page 2, No. 20, Vol. XLII of January 15, 1953, issue of Board's semi-monthly pamphlet of Judgments, Orders, Regulations and Rulings, in the sentence "Stop-off charges, except the charge specified in Section 49(4) of the Canada Grain Act, of one cent for each cental, less three dollars"—"Section 49(4)" should read "Section 59(4)".

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80654 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Derby Telephone Company Limited.
- 80655 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Maple Leaf Telephone Company Limited.
- 80656 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Balaclava Telephone Company Limited.
- 80657 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Centre Road Telephone Company Limited.
- 80658 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Company and the Bognor Telephone Company Limited.
- 80659 Jan. 20—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Sydenham Union Telephone Company Limited.
- 80660 Jan. 20—Permitting the removal of slow order at crossing of Canadian National Railways east of station at Nicolet, P.Q.
- 80661 Jan. 20—Permitting the removal of slow order at crossing of C.P.R. east of station at Staynerville, P.Q.
- 80662 Jan. 20—Amending Order No. 80435 of December 17, 1952, which authorized the Canadian Northern Railway Company to construct an additional track across Railway Ave., North Battleford, Sask.
- 80663 Jan. 21—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Ben Allen Telephone Company Limited.
- 80664 Jan. 21—Authorizing the City of Calgary, Alberta, to construct and maintain 58th Avenue South across the C.P.R., City of Calgary, Alta.
- 80665 Jan. 21—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Silcote Telephone Company Limited.
- 80666 Jan. 23—Authorizing the C.N. Rlys. to install signals in the Ottawa area, Province of Ontario.
- 80667 Jan. 21—Approving the proposed location of storage tank of Mr. Blake Snobelen near C.N.R. tracks at Thamesville, Ont.
- 80668 Jan. 21—Approving plan showing the standard timber trestle of Quebec North Shore and Labrador Railway Company.
- 80669 Jan. 21—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Kemble Sarawak Telephone Company Limited.
- 80670 Jan. 21—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Fifth Line Telephone Company Limited.
- 80671 Jan. 21—Permitting the removal of slow order at C.P.R. crossing, Town of Newcastle Bridge, N.B.
- 80672 Jan. 21—Permitting the removal of slow order at C.N.R. crossing near station at St. Jean Port Joli, P.Q.
- 80673 Jan. 21—Approving proposed location of unloading standard of Supertest Petroleum Corporation, Limited, near C.N.R. tracks at Barrie, Ont.
- 80674 Jan. 21—Authorizing the C.P.R. to operate over subway of Toronto Transportation Commission just east of station at North Toronto, Ont.
- 80675 Jan. 21—Approving proposed location of vertical storage tank of Imperial Oil Limited near C.N.R. tracks at St. Jean Port Joli, P.Q.
- 80676 Jan. 21—Authorizing the C.P.R. and The Chesapeake and Ohio Railway Company to operate their trains through the interlocking at crossing of their railways at Chatham, Ont.
- 80677 Jan. 21—Approving plan submitted to C.N.R. by Western Leasehold Limited, showing location of crude oil loading facilities at Munson, Alta.
- 80678 Jan. 21—Requiring the C.P.R. to install and maintain protection at crossing of Johnston Road and the Esquimalt and Nanaimo Railway, Alberni, B.C.
- 80679 Jan. 22—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 80680 Jan. 22—Authorizing C.N.R. to operate over subway at 4th Avenue, in City of Quebec, P.Q.
- 80681 Jan. 23—Restricting the speed of trains of The Toronto, Hamilton & Buffalo Railway Company at crossing of Broad Street, Dunnville, Ont.
- 80682 Jan. 23—Restricting the speed of C.P.R. trains at crossing of St. Florent Street, Hull, P.Q.
- 80683 Jan. 23—Permitting the removal of slow order at C.N.R. crossing at mileage 54·90 Preeceville Subdivision, Saskatchewan.
- 80684 Jan. 23—Permitting the removal of slow order at C.P.R. crossing at mileage 8·5 Empress Subdivision, Saskatchewan.
- 80685 Jan. 23—Permitting the removal of slow order at C.N.R. crossing of Third Street, The Pas, Man.
- 80686 Jan. 23—Permitting removal of slow order at C.P.R. crossing in the Village of Salford, Province of Ontario.

- 80687 Jan. 23—Approving proposed location of storage tank, etc., of National Carbon Limited, Walkerton, Ontario.
- 80688 Jan. 23—Approving plan submitted by C.N.R. showing signals as installed in area south of their Central Station, Montreal, P.Q.
- 80689 Jan. 23—Amending Order No. 80475 of December 20, 1952, with regard to the construction of Union Street across the C.N.R. right-of-way in the City of Kitchener, Ont.
- 80690 Jan. 23—Approving proposed location of storage tank of Imperial Oil Limited, New Glasgow, N.S.
- 80691 Jan. 23—Permitting removal of slow order at C.P.R. crossing of Marlborough Street, Cornwall, Ont.
- 80692 Jan. 24—Permitting the removal of slow order at C.P.R. crossing of Westminster Avenue, Town of Cote St. Luc, P.Q.
- 80693 Jan. 24—Authorizing the County of Oxford, Ont., to widen County Road No. 31 across the right-of-way of N.Y.C.R. Co., near Brownsville, Ont.
- 80694 Jan. 24—Approving certain tariff schedules of the Canadian National Telegraphs and the Canadian Pacific Railway Communications Department.
- 80695 Jan. 24—Permitting the removal of slow order at C.N.R. crossing of Plank Road, Sarnia, Ont.
- 80696 Jan. 26—Approving proposed location of vertical storage tanks near C.P.R. tracks at Cowansville, P.Q.
- 80697 Jan. 26—Approving Supplement to Service Station Contract between The Bell Telephone Company and The North Wellington Telephone Company Limited.
- 80698 Jan. 26—Permitting the removal of slow order at C.P.R. crossing in the Village of Westover, P.Q.
- 80699 Jan. 26—Authorizing the Department of Highways and Public Works of Nova Scotia to reconstruct the overhead bridge of Acadia Coal Company Limited, mileage 4·95 Thorburn Subdivision, Nova Scotia.
- 80700 Jan. 26—Authorizing the Quebec Department of Colonization to construct the highway across the C.N.R. at mileage 22·41 Danville Subdivision.
- 80701 Jan. 26—Approving plan showing protection as installed at crossing of C.N.R. and Highway No. 19A in the Town of St. Tite, P.Q.
- 80702 Jan. 26—Approving plan submitted to C.N.R. by Amurex Oil Development Company showing location of crude oil loading facilities at Cessford, Alta.
- 80703 Jan. 26—Approving Supplement to Traffic Agreement between the Bell Telephone Company and the Department of Lands and Forests, Province of Ontario.
- 80704 Jan. 26—Permitting the removal of slow order at C.N.R. crossing west of station at Grand'Mere, P.Q.
- 80705 Jan. 27—Restricting the speed of trains of the Dominion Atlantic Railway Company crossing of Mount Street, Digby, N.S.
- 80706 Jan. 27—Permitting the removal of slow order at C.N.R. crossing of Highway No. 4, Village of James River, N.S.
- 80707 Jan. 27—Authorizing the C.N.R. to install a spring switch at passing track at mileage 3·10 Albretha Subdivision, British Columbia.
- 80708 Jan. 27—Approving operation of the Canadian Northern Railway Company trains over a private industrial siding serving the premises of Western Grocers Limited and Dominion Fruit, North Battleford, Sask.
- 80709 Jan. 27—Approving C.N.R. plan showing automatic bell as installed at crossing of Concession "A", Weston, Ont.
- 80710 Jan. 27—Permitting the removal of slow order at Esquimalt and Nanaimo Railway crossing near station at Ladysmith, mileage 58·7 Victoria Subdivision, British Columbia.
- 80711 Jan. 27—Restricting the speed of trains at C.P.R. crossing of 104th Street at 85th Ave., Edmonton, Alta.
- 80712 Jan. 27—Amending Order No. 80355 of December 5, 1952, which authorized the Northern Alberta Railways Company to operate the trestle at mileage 123·1 Grande Prairie Subdivision, British Columbia.
- 80713 Jan. 27—Approving Mobile Telephone Service Agreement between The Bell Telephone Company and the Michigan Bell Telephone Company.
- 80714 Jan. 28—Authorizing the Trans-Northern Pipe Line Company to operate the sections of its pipe line from a point in the Montreal-Hamilton 10-inch pipe line in Lot 24, Second Concession of the Twp. of Osnabruck, to a point in the Twp. of Edwardsburg, County of Grenville, Ontario.
- 80715 Jan. 28—Approving operation of C.P.R. trains over private siding serving The Superheater Company Limited, Sherbrooke, P.Q.
- 80716 Jan. 28—Approving operation of C.N.R. trains over private spur serving R.C.A. Victor Company, Prescott, Ont.
- 80717 Jan. 28—Authorizing C.P.R. to operate over the pedestrian subway at 17th Street South, Lethbridge, Alta.

- 80718 Jan. 28—Approving certain revisions to Bell Telephone Company Interchange Mileage and Rate Guide.
- 80719 Jan. 28—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 80720 Jan. 28—Authorizing the Toronto Harbour Commissioners to construct a railway siding to serve Liquifuels Limited near Cherry Street and Unwin Avenue, Toronto, Ont.
- 80721 Jan. 28—Permitting the removal of slow order at C.P.R. crossing west of station at Coldwater, Ont.
- 80722 Jan. 29—Approving Mobile Telephone Service Agreements between The Bell Telephone Company and the New York Telephone Company.
- 80723 Jan. 29—Authorizing the Grand Trunk Pacific Railway Company to operate a branch line in the City of Edmonton, Alta.
- 80724 Jan. 29—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 71 filed by the Cumberland Railway and Coal Company under Section 9.
- 80725 Jan. 29—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 45 by the Cumberland Railway and Coal Company under Section 9.
- 80726 Jan. 29—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 44 by the Cumberland Railway and Coal Company under Section 9.
- 80727 Jan. 29—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 37 by the Cumberland Railway and Coal Company under Section 9.
- 80728 Jan. 29—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 36 by the Cumberland Railway and Coal Company under Section 9.
- 80729 Jan. 29—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 25 by the Cumberland Railway and Coal Company under Section 9.
- 80730 Jan. 29—Authorizing the Grand Trunk Pacific Railway Company to construct a branch line in the City of Edmonton, Alta.
- 80731 Jan. 29—Authorizing the B.C. Department of Public Works to construct the Trans Canada Highway across the C.N.R. at mileage 1·66 Cowichan Subdivision.
- 80732 Jan. 29—Authorizing the Great Northern Railway Company to reconstruct the overhead bridge over its railway at Lakewood Drive, Vancouver, B.C.
- 80733 Jan. 29—Authorizing the Trans-Northern Pipe Line Company to make correction in plan which omitted showing the railway siding of the C.N.R. and The Toronto, Hamilton & Buffalo Railway Company.
- 80734 Jan. 29—Permitting the removal of slow order at C.P.R. crossing at Main Street in the Village of St. Guillaume d'Upton, P.Q.
- 80735 Jan. 30—Approving certain revisions to Bell Telephone Company tariffs.
- 80736 Jan. 30—Approving proposed location of warehouse, etc., of Imperial Oil Limited, near the C.P.R. tracks at Meath Park, Sask.
- 80737 Jan. 30—Authorizing C.P.R. to install protection at crossing immediately south of station at Essa, Ont.
- 80738 Jan. 30—Restricting the speed of trains at Chesapeake & Ohio Railway Company crossing of Sunset Drive, St. Thomas, Ont.
- 80739 Jan. 30—Permitting the removal of slow order at C.P.R. crossing of Main Street, Chalk River, Ont.
- 80740 Jan. 30—Approving plan showing changes to the interlocking plant at crossing of C.N.R. and C.P.R. at West Tower, Portage la Prairie, Man.
- 80741 Jan. 30—Approving plan showing signal protection at crossing of C.N.R. and C.P.R. at mileage 41·1 Kerrobert Subdivision.
- 80742 Jan. 30—Approving Supplement to Service Station Contract between The Bell Telephone Company and The West Gore Telephone Association.
- 80743 Jan. 30—Approving Traffic Agreement between The Bell Telephone Company and Le Téléphone de Chénier.
- 80744 Jan. 30—Approving Service Station Contract between The Bell Telephone Company and T. F. Ahearn and Underwood Limited.
- 80745 Jan. 30—Approving Appendix A to Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de Warwick.
- 80746 Jan. 31—Authorizing C.P.R. to install protection at crossing of the Town Line Road and its railway and the railway of the C.N.R. near Palgrave, Ont.
- 80747 Jan. 31—Permitting the removal of slow order at C.P.R. crossing of Horne Avenue near station at Mission City, B.C.
- 80748 Jan. 31—Requiring the C.P.R. to install protection at crossing of Highway No. 43 near station at Winchester, Ont.

- 80749 Jan. 31—Requiring the C.P.R. to use and operate the extension to the bridge over Maple Creek west of Maple Creek Station, Sask.
- 80750 Jan. 31—Amending Order No. 77894 of December 8, 1951, *re* application of City of Port Arthur for protection at C.N.R. crossing at mileage 145·84 Lakehead Subdivision, and crossing of C.P.R. near Current River at mileage 126·46 Nipigon Subdivision, Ontario.
- 80751 Jan. 31—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.N.R. tracks at Shellbrook, Sask.
- 80752 Jan. 31—Approving Appendix "A" to Traffic Agreement between The Bell Telephone Company and La Corporation de Téléphone de Québec.
- 80753 Jan. 31—Authorizing the Canadian Collieries (Dunsmuir) Ltd., to construct a slope under C.N.R. tracks at Mercoal, Alta.
- 80754 Jan. 31—Approving Supplement to Service Station Contract between The Bell Telephone Company and La Conception Telephone Company.
- 80755 Jan. 31—Approving proposed location of storage tanks, etc., of the Birch Island Lumber Company near the C.N.R. tracks at Vavenby, B.C.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, March 15, 1953

No. 24

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

Application of the City of Port Arthur, Ontario, in regard to protection at the crossing of the public road and the Canadian National Railways near Current River at mileage 145.84, Lakehead Subdivision

and

at the crossing of the public road and the railway of the Canadian Pacific Railway Company near Current River at mileage 126.46, Nipigon Subdivision.

Files Nos. 26711-975
26727-557

JUDGMENT

MACPHERSON, Commissioner:

By Order No. 77894, herein dated December 8th, 1951, made pursuant to judgment dated November 22, 1951, the Board directed that certain protective devices be installed at the said crossings and that a contribution of 40 per cent of the cost of installing the protection, not exceeding \$4,760.00, be paid out of the Railway Grade Crossing Fund, and the remainder of such cost, as well as the cost of maintenance and operation, be borne and paid 40 per cent by Canadian Pacific Railway Company, 40 per cent by the City of Port Arthur and 20 per cent by Canadian National Railways.

It was subsequently drawn to the attention of the Board that the total cost of installing the protection was \$15,366.00 and that a 40 per cent grant from the Railway Grade Crossing Fund would amount to \$6,147.00 instead of the \$4,760.00 which was granted by the Order. An amendment to that effect was requested by Canadian National Railways and supported by Canadian Pacific Railway Company and the City of Port Arthur.

By an application dated April 1, 1952, Canadian Pacific also asked that as between the two railway companies the cost of construction, maintenance and operation should be apportioned equally. In a subsequent letter dated October 30, 1952, Mr. Spence, Commission Counsel for Canadian Pacific, asked that the cost of operation be borne 50 per cent by the City of Port Arthur and 50 per cent by Canadian National Railways. His letter referred to the joint section agreement between the two railways which, according to the letter, provided that "the Canadian Pacific is not to bear operating costs of protective devices of the interlocking signalling and other protective devices installed under the said agreement or required or ordered by the Board."

Mr. Dysart, Commission Counsel for Canadian National Railways, in his reply stated that the provisions of the joint section agreement have no application to the responsibility for the assumption of operating costs of the protective devices covered by Order No. 77894, and that the protective devices in question have not been necessitated by any situation or condition pertaining to the operation of the joint section.

It is obvious that there is a dispute as to the effect of the joint section agreement. I do not consider that it is necessary for the purposes of this case to resolve that dispute or to base a determination as to apportionment of the cost of operating the protection ordered by Order No. 77894 on the joint section agreement.

Although switching movements were not mentioned in the judgment above mentioned the Board was not unmindful of such movements and did not disregard that traffic in making its determination as to apportionment of costs. I have reviewed the judgment and considered the submissions subsequently made and I am not disposed to vary Order No. 77894 except to amend it by increasing the grant from the Railway Grade Crossing Fund from \$4,760.00 to \$6,147.00. An order will go amending Order No. 77894 accordingly.

FRANK M. MACPHERSON.

January 15, 1953.

I concur:

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

ORDER No. 80750

In the matter of the application of the City of Port Arthur, Ontario, in regard to protection at the crossing of the public road and the Canadian National Railways near Current River at mileage 145·84, Lakehead Subdivision
and

at the crossing of the public road and the railway of the Canadian Pacific Railway Company near Current River at mileage 126·46, Nipigon Subdivision.

Files Nos. 26711·975
26727·557

SATURDAY, the 31st day of January, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 77894, dated December 8, 1951, be, and it is hereby, amended by substituting the "the sum of \$6,147.00" for "the sum of \$4,760.00" in paragraph numbered three of the said Order.

HUGH WARDROPE,

Assistant Chief Commissioner.

In the matter of Order No. 77670, dated 2nd day of November, 1951, which authorized the Department of Highways and Public Works of the Province of Nova Scotia to reconstruct the overhead bridge over the tracks of the Acadia Coal Company Limited, in the Province of Nova Scotia, at mileage 4.95 Thorburn Subdivision, Canadian National Railways;

AND

In the matter of the apportionment of the cost of the reconstruction of the said overhead bridge, which apportionment was reserved by the said Order No. 77670 for further consideration of the Board.

File No. 27218-107

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

Mr. F. M. MACPHERSON, *Commissioner.*

Appearances:

Mr. JOHN MACNEIL, Q.C., for Acadia Coal Company, Limited.

Mr. A. H. HART, for Canadian National Railways.

Mr. J. E. BELLIVEAU, Deputy Minister of Highways and Public Works, and Mr. R. W. McCOLOUGH, Executive Assistant to the Minister of Highways and Public Works of Nova Scotia, for the Department of Highways and Public Works of the Province of Nova Scotia.

Mr. H. B. McCULLOCH, M.P.

Mr. J. W. MACDONALD, M.L.A.

JUDGMENT

KEARNEY, J., Chief Commissioner:

The overhead bridge over the tracks of the Acadia Coal Company Limited at mileage 4.95 Thorburn Subdivision, Canadian National Railways, in Pictou County, Nova Scotia, has been the subject of consideration by the Board on a number of occasions at the request of the Department of Highways and Public Works of Nova Scotia. Hearings were held in connection therewith in 1935 and 1938, but for various reasons reconstruction of the bridge was not proceeded with. The Department of Highways and Public Works renewed its request in 1947 and Order No. 77670 was issued on November 2, 1951, and it authorized the Department of Highways and Public Works to reconstruct the bridge and reserved for further consideration the apportionment of the cost of reconstruction. The parties did not agree as to the apportionment of such cost and the matter was heard on July 29, 1952, at New Glasgow, Nova Scotia.

The railway is owned by the Acadia Coal Company Limited, hereinafter sometimes referred to as "Acadia", and was constructed under Nova Scotia legislation. The exact date of construction does not appear in our files but our information is that construction took place in the 1870's. The railway runs between New Glasgow and Thorburn, where Acadia carries on coal mining operations, a distance of approximately six miles, and was formerly known as the Vale railway.

The railway has been under lease from Acadia to His Majesty the King for some years. A series of agreements in this respect between Acadia and His

Majesty were put in evidence. The original agreement was made in 1925 and provided for a ten years' lease, which has been renewed from time to time, the last renewal being in 1950 for five years from June 4, 1950. During the period of the agreements the railway has been operated by Canadian National Railway Company.

At mileage 4.95 the railway crosses a public road which is a secondary highway under the jurisdiction of the Department of Highways and Public Works of Nova Scotia. At the time of construction of the railway the road was undoubtedly a minor country road.

The highway bridge was built to carry the road over the railway when the latter was constructed. Whether the railway or highway is senior has not been conclusively established but it appears likely that the road existed before the railway was constructed. The bridge is of timber construction and while repairs have been made from time to time it has not been completely reconstructed at any time and at present is in a very poor state of repair. The approaches to the bridge are on very sharp curves and the grades of approach are extremely heavy, being approximately 31 per cent to the north and 23 per cent to the south. It would appear that when the railway was constructed the road was diverted somewhat, to provide a crossing roughly at right angles to the railway. The bridge is only fourteen feet wide and two cars cannot safely pass on it. Highway traffic is said to be about 800 vehicles per day. The Canadian National Railways operate two trains each way per day. There is little doubt that the bridge is dangerous and inconvenient to the public using it.

As already stated the Board issued its Order No. 77670, which authorized the Department of Highways and Public Works to reconstruct the bridge at a location approximately 150 feet north of the bridge as then located. At the subsequent hearing on July 29, 1952, it was contended on behalf of the Canadian National Railways that a level crossing with modern protective devices would be a satisfactory alternative to the existing bridge.

Representatives of the Department of Highways and Public Works of the Province of Nova Scotia, however, urged that to substitute a level crossing for an existing overhead pass would be a retrograde step and a reversal of the Board's policy to eliminate and not augment level crossings. Although it is doubtless true that there are level crossings which by reason of density of traffic and other factors are more dangerous than the railway-highway crossing with which we are concerned and where the need for an over-pass and under-pass is more urgent, nevertheless I do not think the Board would be justified in the circumstances in authorizing the substitution of a level crossing for an over-pass, and I do not believe that a level crossing would be in the public interest.

In our opinion a suitable bridge at the new location is necessary to remove the danger and inconvenience that is caused by the existing inadequate bridge and is the only satisfactory alternative to the existing bridge. It is not disputed that an overhead bridge at the present location with approaches suitable for highway traffic cannot reasonably be provided. It is also my opinion that the Board has power to authorize construction of the new bridge and that it has power under section 39 of the Railway Act to apportion the cost between interested or affected parties.

The Department of Highways and Public Works is willing to bear its fair portion of the cost. Counsel for Canadian National Railways contended that if the Board should authorize a new bridge the Canadian National Railways, being only the operator of the railway under an agreement which will expire in 1955 unless renewed, should not be assessed any part of the cost; in the alternative, that any part of the cost imposed on the Canadian National Railways should be based on what it would cost to construct a bridge suitable for modern day traffic on the location of the present bridge.

It is important to bear in mind that the present structure was built by the railway company originally and has been maintained by Acadia and latterly by Canadian National Railways. It was submitted on behalf of the Department of Highways and Public Works that the whole responsibility of replacing the existing antiquated structure with one in keeping with modern requirements is the obligation of the railways. As previously stated, the Department of Highways and Public Works desires to construct a new overhead pass at a location some 150 feet north of the present bridge, and the proposed new over-pass will be of such breadth, design and structure as to cost with approaches, in the vicinity of \$80,000.00.

Our Engineering Department considers that if Canadian National Railways and/or Acadia were to replace the present antiquated over-pass, with its dangerous and devious approaches, with an over-pass in keeping with present day requirements, the cost of the over-pass and approaches would exceed \$25,000.00. However, as already pointed out, an over-pass on the exact site of the present bridge cannot reasonably be provided. I am of the opinion that a new bridge should be constructed as proposed by the Department of Highways and Public Works about 150 feet from the site of the present bridge.

Along with the agreements already referred to there was put in evidence correspondence having to do with the respective responsibilities of Canadian National Railways and Acadia in connection with work of repair, maintenance or reconstruction of the existing bridge. I may also mention here that under the agreements Her Majesty has an option to purchase the railway.

Since the hearing Acadia and Canadian National Railways have by private agreement settled their respective responsibilities in the event that the Board should require from them jointly or separately a contribution towards the new bridge. It is therefore not necessary to determine the effect of the agreements.

I would authorize the Department of Highways and Public Works to construct the proposed bridge and, under all the circumstances, would require Canadian National Railways to bear \$25,000.00 of the cost of construction, as well as 50 per cent of the cost of maintaining the bridge structure other than the wearing surface, the remainder of the cost of construction and maintenance to be borne by the Department of Highways and Public Works. The general nature of the proposed bridge has been discussed with the Board and its Director of Engineering but it is understood that the plans already submitted may be modified somewhat, consequently detailed plans of the bridge as finally determined shall be submitted for approval of an Engineer of the Board. Construction shall be in accordance with General Order No. 589. Upon completion of the bridge the Department of Highways and Public Works shall dismantle the existing bridge. A new order will issue in lieu of Order No. 77670.

JOHN D. KEARNEY.

January 22, 1953.

I concur:

FRANK M. MACPHERSON.

ORDER No. 80699

In the matter of Order No. 77670, dated November 2, 1951, which authorized the Department of Highways and Public Works of the Province of Nova Scotia to reconstruct the overhead bridge over the tracks of the Acadia Coal Company Limited, in the Province of Nova Scotia, at mileage 4.95 Thorburn Subdivision, Canadian National Railways;

And in the matter of the apportionment of the cost of the reconstruction of the said overhead bridge, which apportionment was reserved by the said Order No. 77670 for further consideration of the Board.

File No. 27218-107

MONDAY, the 26th day of January, A.D. 1953.

HON. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MacPHERSON, *Commissioner.*

Upon hearing the matter at a sitting of the Board at New Glasgow on July 29, 1952, in the presence of Counsel for Acadia Coal Company Limited and Canadian National Railways and representatives of the Department of Highways and Public Works of Nova Scotia, and elected representatives—

It is ordered

1. That the Department of Highways and Public Works of Nova Scotia, hereinafter called the "Applicant", be, and it is hereby, authorized to reconstruct the overhead bridge over the tracks of Acadia Coal Company Limited, in the Province of Nova Scotia, at mileage 4.95 Thorburn Subdivision, Canadian National Railways, at a location approximately one hundred and fifty feet north of its present location, as shown on Sheets 1 and 2, revised to July 18, 1950, on file with the Board under file No. 27218-107 with such modifications as may be approved by an Engineer of the Board; detailed plans to be submitted for approval if any such modification is made; the bridge to be constructed in accordance with the provisions of General Order No. 589.

2. That, upon completion of the overhead bridge hereby authorized, the Applicant dismantle the existing bridge over the tracks of the Acadia Coal Company Limited in the Province of Nova Scotia, at mileage 4.95 Thorburn Subdivision, Canadian National Railways.

3. That \$25,000.00 of the cost of the work hereby authorized, as well as fifty per cent of the cost of maintaining the bridge structure other than the wearing surface, be borne and paid by Canadian National Railways and that the remainder of the cost of construction and maintenance be borne by the Applicant.

4. That Order No. 77670 be, and it is hereby, rescinded.

JOHN. D. KEARNEY,
Chief Commissioner.

In the matter of the consideration of the apportionment of the remainder of the cost of construction as well as the cost of maintenance of the subway authorized to be constructed at the intersection of the highway and the railway of the Canadian National Railways at mileage 19.2 Rimouski Subdivision, in the Town of Rimouski, Province of Quebec, in pursuance of the provisions of Board's Order No. 76802, dated June 19, 1951.

File No. 26782-313

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Rimouski, P.Q., on January 22, 1953.

Appearances:

L. METHOT, Q.C., and R. E. ASSELIN, Q.C., for the Quebec Department of Roads.
J. W. G. MACDOUGALL and GUSTAVE GARNEAU, Q.C., for the Canadian National Railways.
PERRAULT CASGRAIN, Q.C., for the Town of Rimouski.
J. P. A. GRAVEL, Q.C., for Price Brothers Limited.

JUDGMENT

CHASE, Commissioner:

To put this matter in its proper perspective it would I think, be most appropriate to briefly recite the events leading up to the issuance of Order No. 76802, dated June 19, 1951, which is referred to in the style of cause.

Originally, Quebec Highway No. 10 was carried across the right-of-way of the Canadian National Railways, hereinafter referred to as the "Railways", at St. Germain Street in the Town of Rimouski, at mileage 19.18 of the Rimouski Subdivision of the Railways, the said crossing being protected by flashing light signals and bell.

Several years ago, prior to the Rimouski fire which occurred in 1950, plans were made for the building of an over-pass over the Railways' right of way to replace the crossing at St. Germain Street. Some time after the fire the matter received further study, it being finally decided that the situation would be improved and Highway No. 10 straightened out to a considerable degree if a subway were to be built at mileage 19.2 of the Rimouski Subdivision of the Railways and the crossing of St. Germain Street closed, and after plans had been prepared the Department of Roads for the Province of Quebec, hereinafter referred to as the "Department", being most anxious to proceed with the construction of the subway and the Railways consenting, Order No. 76802 was issued under date of June 19, 1951.

As this subway is located in the Town of Rimouski, before proceeding further I think, in this case, it should be made clear that the application was made by the Department of Roads for the Province of Quebec, and to say that that Department attorned to the jurisdiction of the Board I would quote from the transcript at pages 1512 and 1575.

At page 1512 the following questions and answers appeared:

Q. (By the Deputy Chief Commissioner): "Before starting there is a point I want to clear up. Do I understand that especially the Department of Highways is ready to agree by our decision in this case?"

To which Counsel for the Department, Mr. Methot, replied: "Yes".

At page 1575 of the transcript Mr. Methot made the following statement:

"We come here as representing the City of Rimouski and taking the place of the City of Rimouski."

Under Order No. 76802 dated June 19, 1951, the Department was authorized to construct and maintain Highway No. 10 across the right of way of the Railways by means of a subway at mileage 19·2 Rimouski Subdivision, in the Town of Rimouski, in the Province of Quebec, and the Order further provided that 40 per cent of the cost of the construction of the subway, not exceeding, however, the sum of \$84,960.00, be paid out of the Railway Grade Crossing Fund, and the apportionment of the remainder of such cost, as well as the cost of the maintenance, be reserved for further consideration of the Board, and that upon the completion of the subway the Railways close the existing crossing of their railway at St. Germain Street, in the Town of Rimouski, in the Province of Quebec, within the limits of their right of way.

As it was necessary to provide for a temporary crossing of the railway during the construction of the subway, Order No. 76892 was issued on July 4, 1951, the substance of which authorized the construction of Highway No. 10 across the right of way of the Railways, in the Town of Rimouski, in the Province of Quebec, at mileage 19·21 Rimouski Subdivision, and that the cost of construction and maintenance of the temporary crossing would be included in the cost of construction of the subway; also, that upon completion of the temporary crossing, the crossing at mileage 19·18 be closed and the Railways re-locate the flashing light signals and bell from the present crossing of the railway to the temporary crossing to be located at mileage 19·21, and that the cost of re-locating the said flashing light signals and bell be included in the cost of construction of the subway.

As this particular case is a most unusual one and probably without precedent, a description of the works which had to be performed in building the subway might well be placed on the record.

Highway No. 10 as now located and passing under the Railways intersects property owned by the Price Brothers Company. Therefore, arrangements had to be made between that Company, the Railways and the Department, not only for the highway but for the removal or re-location of part of the Price Brothers plant.

At the site of the subway the Railways originally had a main line track and a siding on the south side of the main line. A short distance to the north of the Railways' main line there was a private siding known as the Hillier siding, owned by Price Brothers, the said siding leading down to what is known as the chipping mill. The overall plan provided for the elimination of the Railways' siding and the re-location of the Hillier siding, the same to be carried over the subway along side of but north of the main line of the Railways.

Price Brothers also having a lumber yard on the south side of the Railways and east of the subway, it was necessary to build a private over-pass over the subway for the use of that Company. Price Brothers property in its new location also had to be fenced. Public utilities, water works, etc., had to be re-located, the subway had to be drained, and as it passes through a rock cut, the sides outside of the right of way had to be sloped and retaining walls built in order to prevent rocks falling on pedestrians and others using the highway. The Department desired to have sidewalks on each side of the subway for the entire distance of the excavation, both inside and outside the Railways right of way. The full cost as stated by Counsel for the Department was \$420,221.56, an amount which is far in excess of the original estimate. (See page 1600 of the transcript).

Exhibits were presented to the Board by the Department during the hearing showing itemized statements for expenses incurred for work actually performed up to January, 1953, and for work yet to be done, and itemized statements were submitted by the Railways showing costs incurred by them.

As stated above, the full cost was considered to be \$420,221.56, but as there were numerous items which could not be taken into account when considering a contribution from the Railway Grade Crossing Fund, Counsel for the Department, Mr. Methot, stated at page 1601 of the transcript:

"We claim that this is the amount which should be taken into consideration by you in the division and this comes to an amount of \$321,061.35."

The above amount not being disputed by the Railways, I am prepared to accept \$321,061.35 as the amount which should be used when considering the contribution from the Railway Grade Crossing Fund. Therefore, the apportionment from that Fund—40 per cent of \$321,061.35, i.e., \$128,424.54, will be the contribution from the Railway Grade Crossing Fund in the apportionment of costs.

Order No. 76802, dated June 19, 1951, should be amended accordingly.

There remains for apportionment the amount of \$192,636.81 and if the past procedure of the Board were followed this amount would be divided equally between the Railways and the municipality which in this case, as indicated herein, is represented by the Department of Roads, but in this particular case, and for the following reasons, I do not think that the past procedure should be followed.

It is questionable whether two sidewalks are really needed and evidence submitted at the hearing proved, I think, that the excavation would not have been as long had the grades been set at, say, 5 per cent. The lowering of the per cent of the grade made it necessary to remove an additional amount of rock, and as the greater amount of the cost of the construction of the subway was for work performed outside the Railways' right of way and as the Department of Roads and the Town of Rimouski will receive the greater benefit, I am of the opinion that as between the Railways and the Department, the Department should bear a greater amount of the cost.

I would apportion the cost as follows:

- (1) For the construction of the subway—\$128,424.54—to be paid from the Railway Grade Crossing Fund.
- (2) \$70,000 to be paid by the Canadian National Railways.
- (3) The balance—\$122,636.81—to be paid by the Department of Roads for the Province of Quebec.
- (4) For maintenance—the Canadian National Railways to maintain the track structure over the subway. The Department of Roads for the Province of Quebec to maintain the surfacing of the highway, the drainage of the subway, the sidewalks for the complete length of the subway, plus the slope of the rocks and the retaining walls outside the Railways' right of way.
- (5) The maintenance of the subway structure to be paid 50 per cent by the Canadian National Railways and 50 per cent by the Department of Roads of the Province of Quebec.
- (6) The Canadian National Railways to pay the cost of closing the temporary crossing at mileage 19·21 when the subway at mileage 19·2 is put into operation.

Order will go in accordance with the distribution of costs as set forth herein. February 13, 1953.

H. B. CHASE.

I concur:

A. SYLVESTRE.

ORDER No. 80835

In the matter of the consideration of the apportionment of the remainder of the cost of construction as well as the cost of maintenance of the subway authorized to be constructed at mileage 19·2 Rimouski Subdivision of the Canadian National Railways, in the Town of Rimouski, Province of Quebec, in pursuance of the provisions of Board's Order No. 76802, dated June 19, 1951:

File No. 26782·313

MONDAY, the 16th day of February, A.D. 1953.

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sitting of the Board held in the Town of Rimouski, in the Province of Quebec, in the presence of Counsel for the Department of Roads of the Province of Quebec, the Canadian National Railways, the Town of Rimouski and Price Brothers Limited—

It is ordered

1. That forty per cent of the remainder of the cost of construction of the said subway authorized to be constructed at mileage 19·2 Rimouski Subdivision of the Canadian National Railways in the Town of Rimouski, Province of Quebec, in pursuance of the provisions of Order No. 76802, dated June 19, 1951, not exceeding, however, the sum of \$128,424.54, be paid out of the Railway Grade Crossing Fund; \$70,000.00 be paid by the Canadian National Railways, and \$122,636.81 by the Department of Roads of the Province of Quebec.

2. That the Canadian National Railways maintain the track structure over the said subway.

3. That the Department of Roads of the Province of Quebec maintain the surfacing of the highway, the drainage of the subway the sidewalks for the complete length of the subway and the slope of the rocks and retaining walls outside the Canadian National Railways' right of way.

4. That the cost of maintenance of the subway structure be borne and paid fifty per cent by the Canadian National Railways and fifty per cent by the Department of Roads of the Province of Quebec.

5. That the cost of closing the temporary crossing of the highway and the Canadian National Railways at mileage 19·21 Rimouski Subdivision when the subway at mileage 19·2 Rimouski Subdivision is put into operation be borne and paid by the Canadian National Railways.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 80897

In the matter of the application of Northwest Steamships Limited for a licence under section 10 of The Transport Act, 1938:

File No. 42076·2

TUESDAY, the 24th day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence Number C.T.C. (W.T.) 265 be issued to Northwest Steamships Limited for the period of one year commencing on the 15th day of January, 1953, licensing the following ships:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>A. A. Hudson</i>	148089	2222
<i>Superior</i>	154471	1774

to transport goods by water between all ports or places in Canada, on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 80902

In the matter of the application of Canada Steamship Lines Limited and the Northern Navigation Company Limited (a wholly owned subsidiary operated as "Northern Navigation Division") hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076·4·1

TUESDAY, the 24th day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that, subject to any exemption granted pursuant to subsection 2 of section 12 of The Transport Act, 1938, Licence Number C.T.C. (W.T.) 263 be issued to the Applicant licensing, for the period of one year commencing January 15, 1953, the following ships to transport passengers between all ports and places in Canada on the St. Lawrence River between Montreal and the West end of the Island of Orleans:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Richelieu</i>	150828	5528
<i>St. Lawrence</i>	153438	6328
<i>Tadoussac</i>	153447	7013

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 80903

In the matter of the application of Canada Steamship Lines Limited and the Northern Navigation Company Limited (a wholly owned subsidiary operated as "Northern Navigation Division") hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:
 File No. 42076-4-2

TUESDAY, the 24th day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that, subject to any exemption granted pursuant to subsection 2 of Section 12 of The Transport Act, 1938, Licence No. C.T.C. (W.T.) 264 be issued to the Applicant licensing, for the period of one year commencing January 15, 1953, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Lake Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Acadian</i>	133533	1686
<i>Barrie</i>	151045	1824
<i>Battleford</i>	148134	2357
<i>Beaverton</i>	125440	2012
<i>Calgarian</i>	112205	2272
<i>Canadian</i>	125427	2214
<i>City of Hamilton</i>	153423	1665
<i>City of Kingston</i>	152837	1690
<i>City of Montreal</i>	153422	1665
<i>City of Toronto</i>	152838	1688
<i>City of Windsor</i>	154463	1905
<i>Edmonton</i>	122856	1983
<i>Elgin</i>	145518	1906
<i>Fairmount</i>	68808	1851
<i>Fernie</i>	154461	2419
<i>Grainmotor</i>	154473	1829
<i>Hastings</i>	145533	1906
<i>Kenora</i>	124235	1979
<i>Kinmount</i>	138187	1711
<i>Lethbridge</i>	147702	2407
<i>Mapleheath</i>	129767	1692
<i>Meaford</i>	151043	1824
<i>Penetang</i>	151046	1824
<i>Saskatoon</i>	153436	2412
<i>Selkirk</i>	152859	2384
<i>Simcoe</i>	145511	1783
<i>Starmount</i>	145609	1859
<i>Teakbay</i>	154462	1895
<i>Weyburn</i>	153437	2408
<i>Winnipeg</i>	152854	2383

2. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Lake Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as Prescott, Ontario.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Collingwood</i>	117089	4529
<i>Renvoyle</i>	148133	3571
<i>Westmount</i>	138232	7392

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 80909

In the matter of filing of tariffs by The Bell Telephone Company of Canada:
Case No. 955-161

WEDNESDAY, the 25th day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the undermentioned revisions to tariffs filed to become effective as shown, be, and they are hereby approved—

<i>Tariff C.T.C. No.</i>	<i>Date Taking Effect</i>	<i>Description</i>
6716	March 22, 1953	General Tariff Part II, Section 1, 19th Revised Sheet 4, 19th Revised Sheet 5, Part V, 2nd Revised Sheet 2G.
6385	March 22, 1953	Individual Exchange Tariff 2nd Revised Sheet 2, 9th Revised Sheet 3.
6464		10th Revised Sheet 3.
6639		18th Revised Sheet 2, 13th Revised Sheet 3.
6710		4th Revised Sheet 2, 11th Revised Sheet 3, 5th Revised Sheet 4.
6826		Original Sheet 1, Original Sheet 2, Original Sheet 3.
6827		Original Sheet 1, Original Sheet 2, Original Sheet 3.

Tariff
C.T.C. No.

Date Taking
Effect

Description

6652

March 22, 1953

First Reference Lists

14th Revised Sheet 7,
11th Revised Sheet 33,
16th Revised Sheet 53,
11th Revised Sheet 61,
10th Revised Sheet 76,
12th Revised Sheet 83,
15th Revised Sheet 84,
11th Revised Sheet 95,
11th Revised Sheet 96,
17th Revised Sheet 106,
9th Revised Sheet 114,
7th Revised Sheet 155,
19th Revised Sheet 156,
11th Revised Sheet 176,
7th Revised Sheet 177,
14th Revised Sheet 208,
6th Revised Sheet 234,
18th Revised Sheet 295,
13th Revised Sheet 331,
12th Revised Sheet 342,
12th Revised Sheet 379,
8th Revised Sheet 421,
8th Revised Sheet 426,
13th Revised Sheet 452,
8th Revised Sheet 458,
8th Revised Sheet 470,
9th Revised Sheet 484,
16th Revised Sheet 486,
9th Revised Sheet 488,
9th Revised Sheet 510,
10th Revised Sheet 520,
7th Revised Sheet 522,
12th Revised Sheet 543,
8th Revised Sheet 559,
8th Revised Sheet 573,
12th Revised Sheet 583,
9th Revised Sheet 632,
16th Revised Sheet 760,
8th Revised Sheet 761,
7th Revised Sheet 782,
11th Revised Sheet 804,
13th Revised Sheet 808,
5th Revised Sheet 813,
13th Revised Sheet 833,
19th Revised Sheet 842,
6th Revised Sheet 843,
7th Revised Sheet 848,
10th Revised Sheet 851,
5th Revised Sheet 862a,
8th Revised Sheet 866,
12th Revised Sheet 890,

<i>Tariff C.T.C. No.</i>	<i>Date Taking Effect</i>	<i>Description</i>
6652	March 22, 1953	First Reference Lists 7th Revised Sheet 893, 13th Revised Sheet 904, 7th Revised Sheet 907, 9th Revised Sheet 926, 4th Revised Sheet 981, 2nd Revised Sheet 1054, 4th Revised Sheet 1074, 7th Revised Sheet 1081, 1st Revised Sheet 1163, 1st Revised Sheet 1183, Original Sheet 1192, Original Sheet 1193.
6668	March 22, 1953	Toll Rate and Route Guide 41st Revised Sheet 4, 40th Revised Sheet 5, 48th Revised Sheet 12, 44th Revised Sheet 15, 38th Revised Sheet 16, 43rd Revised Sheet 22, 28th Revised Sheet 23, 36th Revised Sheet 37, 29th Revised Sheet 40, 30th Revised Sheet 41, 32nd Revised Sheet 45, 26th Revised Sheet 48, 36th Revised Sheet 50.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80756 Feb. 2—Restricting the speed of trains over C.N.R. crossing of 24th Street East, Saskatoon, Sask.
- 80757 Feb. 3—Amending Order No. 74107, dated March 9, 1950.
- 80758 Feb. 3—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.P.R. tracks at Indian Head, Sask.
- 80759 Feb. 3—In the matter of application of the Department of Public Works of British Columbia for an order extending the time within which the C.N.R. were required to close the crossing at mileage 17.6 Albreda Subdivision.
- 80760 Feb. 3—Restricting the speed of C.P.R. trains at first crossing west of station at Rokeby, Sask.
- 80761 Feb. 3—Permitting the removal of slow order at C.N.R. crossing near Lafontaine Avenue, mileage opposite 115.2 Jonquiere Subdivision, Quebec.
- 80762 Feb. 3—Authorizing the New York Central Railroad Company to close the station at Ruscomb, Ont.
- 80763 Feb. 3—Approving clearances at N.Y.C. siding serving the H. J. Heinz Company Limited at Leamington, Ont.
- 80764 Feb. 4—Approving clearances at proposed overhead viaduct over the tracks of the C.P.R., mileage 0.40 Wolfe's Cove Branch, Quebec, P.Q.
- 80765 Feb. 4—Permitting the removal of slow order at C.P.R. crossing of Lesperance Road, Village of Elmstead, Ont.
- 80766 Feb. 5—Authorizing the Trans Mountain Oil Pipe Line Company to construct a pipe line for oil on lands of certain railways in the provinces of Alberta and British Columbia.
- 80767 Feb. 6—Authorizing the Canadian Northern Railway Company to construct its main line and passing track across Queen Street, in the Municipality of Emo, Ontario.
- 80768 Feb. 6—Authorizing the issuance of water transport Licence No. C.T.C. (W.T.) 261 to the C.P.R. Company.
- 80769 Feb. 6—Amending Order No. 80580 dated January 10, 1953, in the matter of the storage tanks on the line of the C.N.R. at Belleville, Ont.
- 80770 Feb. 6—Amending Order No. 80564 dated January 7, 1953, which authorized protection at the crossing of the C.N.R. and Innisfil Street, Barrie, Ont.
- 80771 Feb. 6—Permitting the removal of slow order at C.P.R. crossing of Regent Street, Sudbury, Ont.
- 80772 Feb. 6—Permitting the removal of slow order at C.P.R. crossing east of station at Kent Bridge, Ont.
- 80773 Feb. 6—Authorizing the Trans Mountain Oil Pipe Line Co. to construct a pipe line for transportation of oil from a point in the Province of British Columbia to the International Border, a distance of 5.5 miles.
- 80774 Feb. 6—Authorizing the Canadian Northern Railway Company to construct a branch line of railway in the City of Edmonton, Alta.
- 80775 Feb. 6—Authorizing the C.N.R. to install protection at crossing of Davenport Road, Toronto, Ont.
- 80776 Feb. 6—Approving clearances at proposed canopies over unloading platforms of storage buildings at Naval Supply Depot, LaSalle, P.Q.
- 80777 Feb. 7—Restricting the speed of trains over C.N.R. crossing of 127th Street, Edmonton, Alta.
- 80778 Feb. 7—Restricting speed of C.N.R. trains over crossing near station at Ste. Florence, P.Q.
- 80779 Feb. 7—Restricting speed of trains of Esquimalt and Nanaimo Railway over crossing near station at Craig, B.C.
- 80780 Feb. 7—Permitting the removal of slow order at C.N.R. crossing near Village of Pepperlaw, Ont.
- 80781 Feb. 7—Permitting the removal of slow order at Algoma Central & Hudson Bay Railway crossing, north of City of Sault Ste. Marie, Ont.
- 80782 Feb. 7—Permitting removal of slow order at C.P.R. crossing at McKamie Road, Dewdney, B.C.
- 80783 Feb. 7—Permitting the removal of slow order at B.C. Electric Railway crossing of East Boulevard and 20th Avenue, Vancouver, B.C.
- 80784 Feb. 7—Approving proposed location of storage tanks, etc., of Light Alloys Limited near C.P.R. tracks at Haley's, Ont.
- 80785 Feb. 7—Approving proposed location of storage tanks, etc., for North Star Oil Limited near C.N.R. tracks at Chauvin, Alta.
- 80786 Feb. 7—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited near C.N.R. tracks near Belleville, Ont.
- 80787 Feb. 7—Approving proposed location of storage tanks, etc., of St. Maurice Chemicals Limited near C.N.R. tracks at Varennes, P.Q.

- 80788 Feb. 7—Approving under the Maritime Freight Rates Act tolls published and tariffs filed by the Canada and Gulf Terminal Railway Company under Section 9.
- 80789 Feb. 9—Approving application of the Buffalo and Fort Erie Public Bridge Authority for approval of a resolution with regard to the preparation and issuance of tariffs.
- 80790 Feb. 9—Permitting the removal of slow order at C.P.R. crossing one mile west of Coldwater, Ont.
- 80791 Feb. 9—Approving under Maritime Freight Rates Act tolls published and tariffs filed by the Cumberland Railway and Coal Company under Section 9.
- 80792 Feb. 9—Authorizing the C.P.R. to replace the timber trestle bridge at mileage 21·7 Coquihalla Subdivision.
- 80793 Feb. 9—Authorizing the C.N.R. to improve the sight lines at Cook's Crossing, near Bridegwater, N.S.
- 80794 Feb. 9—Authorizing C.N.R. to make signal changes to the Butler cut-off switch located in a portion of the Montreal Terminal interlocking zone, Quebec.
- 80795 Feb. 9—Authorizing the Great Northern Railway Company to construct a branch line to serve the plant of British Ropes Canadian Factory Limited, Vancouver, B.C.
- 80796 Feb. 10—Approving Traffic Agreement between the Ontario Northland Transportation Commission and The Bell Telephone Company of Canada.
- 80797 Feb. 10—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie du Téléphone Saguenay-Québec.
- 80798 Feb. 10—Authorizing the C.N.R. to operate under the bridge in the Municipality of St. Telephore, P.Q.
- 80799 Feb. 10—Approving under the Maritime Freight Rates Act tolls published and tariffs filed by the Dominion Atlantic Railway Company under Sections 3 and 9.
- 80800 Feb. 11—Authorizing the Quebec Telephone Corporation to construct a section of telephone line along the right of way of the C.N.R., Montmagny Subdivision.
- 80801 Feb. 11—Granting leave to the Trans Mountain Oil Pipe Line Company to transfer to and in favour of Montreal Trust Company the pipe line for transportation of oil to be built by it in the Province of British Columbia.
- 80802 Feb. 11—Authorizing the Trans Mountain Oil Pipe Line Company to carry its pipe line across certain highways and railways in the Province of Alberta.
- 80803 Feb. 11—Extending the time for the construction of a highway across the C.P.R. by the Department of Public Works of the Province of New Brunswick at mileage 33·44 Minto Subdivision.
- 80804 }
80805 } Feb. 11—Approving under the Maritimes Freight Rates Act tolls published and tariffs
80806 } filed by the Sydney and Louisburg Railway Company under Section 9.
80807 }
- 80808 Feb. 11—Authorizing the Alberta Department of Highways to widen its highway where it crosses the C.P.R. at mileage 19·0 Cardston Subdivision, Alberta.
- 80809 }
80810 }
80811 }
80812 }
80813 } Feb. 11—Approving under the Maritimes Freight Rates Act tolls published and tariffs
80814 } filed by the Sydney and Louisburg Railway Company under Section 9.
80815 }
80816 }
80817 }
- 80818 Feb. 11—Approving By-law No. 8120 of the Township of North York, Ont., in regard to the prohibiting of sounding of engine whistles.
- 80819 Feb. 12—Authorizing the C.P.R. to operate their trains over the siding of the Toronto Harbour Commissioners serving Lever Brothers Limited, Toronto, Ontario.
- 80820 Feb. 12—Permitting the removal of slow order of C.P.R. crossing of Norma Street, Arnprior, Ont.
- 80821 Feb. 13—Restricting the speed of C.N.R. trains at Steel Street, Port Colborne, Ont.
- 80822 Feb. 13—Authorizing the C.P.R. to make changes in the protection at crossing of Highway No. 26 near Midhurst, Ont.
- 80823 Feb. 13—Approving operation of the Quebec Central Railway Company trains over a private siding serving Thomas Bonar and Company (Canada) Limited, Town of East Angus, P.Q.
- 80824 Feb. 13—Approving plan showing protection as installed at the crossing of C.N.R. at Lazard Avenue in the Town of Mount Royal, P.Q.
- 80825 Feb. 13—Approving operation of C.P.R. trains over private siding serving Ciment Quebec Incorporated, Village of St. Basile South, P.Q.
- 80826 Feb. 13—Authorizing the C.P.R. to remove the agent and appoint a caretaker-agent at Templeton, P.Q.

- 80827 Feb. 14—Requiring the C.P.R. to install protection at crossing near Hale Station, Brighton, N.B.
 80828 Feb. 14—Requiring the C.P.R. to install protection at the crossing of the highway near Upper Kent Station, N.B.
 80829 Feb. 14—Requiring the C.P.R. to install protection at crossing of the highway near Village of River de Chute, N.B.
 80830 Feb. 14—Requiring the C.N.R. to install protection at Arran Street, Campbellton, New Brunswick.
 80831 Feb. 16—Requiring the C.N.R. to install protection at crossing of Gamble Street, Rouyn, P.Q.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
 BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
 JANUARY, 1953

Railway Accidents	227	Killed 10	Injured 312
Level Crossing Accidents	46	Killed 15	Injured 53
Totals.....	273	Killed 25	Injured 365
		<i>Killed</i>	<i>Injured</i>
Passengers		1	83
Employees		1	217
Others		23	65
Totals.....		25	365

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	—	1	Automobile ran into side of train. Licence: N.S. 44767.
1	—	1	Automobile ran into side of train. Licence not given.

QUEBEC

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 330453.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 378-118.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 79559.
1	—	1	Auto truck ran into side of train. Licence: Que. F-3216.
1	—	1	Automobile drove onto crossing in front of train backing over crossing and was struck. Licence: Que. 341053.
1	4	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 406256.

ONTARIO

1	—	2	Automobile ran into side of track motor car. Licence not given.
1	—	3	Automobile ran into side of train. Licence: Ont. 58-H-52.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 14960-B.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. B-25785.
1	—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 2-S-58.
1	—	1	Automobile ran into side of train. Licence: Ont. 375-M-5.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 31059-C.
1	—	1	Automobile ran into side of train. Licence: Ont. 5101-S.
1	1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. S-8-125.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. B-3758.
1	—	2	Automobile drove onto crossing in front of train backing over crossing and was struck. Licence: Ont. 6036-U.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-9974.
1	1	1	Automobile ran into side of train. Licence: Ont. F-4317.
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. N-3367.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. B-25087.
1	1	—	Automobile ran into side of train. Licence: Ont. 543-ER.
1	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 9695-L.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 25762.
1	1	—	Auto truck ran into side of train. Licence: Ont. H-199770.
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-4728.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-5487.
1	—	1	Automobile ran into side of train. Licence: Ont. 95-J-81.

MANITOBA

1	—	1	Auto truck stalled on crossing and was struck by train. No licence.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 7-H-809.

SASKATCHEWAN

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 133914.
1	—	1	Automobile ran into side of train. Licence: Sask. 75-498.
1	—	1	Auto truck ran into side of train. Licence: Sask. D-582.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
1	—	1	Auto truck ran into side of train. Licence: Sask. F-10-073.
1	—	1	Auto truck ran into side of train. Licence: Sask. F-35446.

ALBERTA

1	1	—	Automobile ran into side of train. Licence: Alta. 56-K-67.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CV-36400.
1	—	1	Automobile ran into side of train. Licence: Alta. 56-K-60.
1	—	1	Automobile ran into side of train. Licence: Alta. 58-E-32.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. C-40-007.

BRITISH COLUMBIA

1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 103-949.
1	—	1	Auto truck ran into side of train. Licence: B.C. C-5370.

Of the 46 accidents at highway crossings, 41 occurred at unprotected crossings, and 5 at protected crossings. Twenty-seven occurred after sunrise and nineteen after sunset.
OTTAWA, Ont., February 26, 1953.

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

March 15, 1953

No. 24A

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application dated January 20th, 1953, of the Railway Association of Canada on behalf of the member companies listed in Schedule "A" thereto, under Section 325 and all other relevant sections of the Railway Act, and under Sections 3 and 9 of the Maritime Freight Rates Act, for authority to make an immediate general increase of 7 per cent (10 cents to 20 cents per ton on coal and coke) in their tolls or rates for the carriage of freight traffic on their lines in Canada.

File No. 46920.2

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
HUGH WARDROPE, *Assistant Chief Commissioner.*
OVERTON A. MATTHEWS, *Commissioner.*

Appearances:

J. L. O'BRIEN, Q.C., for the Railway Association of Canada and the Canadian Pacific Railway Company.
HUGH E. O'DONNELL, Q.C., for the Railway Association of Canada and the Canadian National Railways.
F. C. S. EVANS, Q.C., I. D. SINCLAIR, G. P. MILLER, for the Canadian Pacific Railway Company.
A. K. DYSART, A. H. HART, for the Canadian National Railways.
M. A. MACPHERSON, Q.C., for the Province of Saskatchewan.
F. D. SMITH, Q.C., RAND H. MATHESON, for the Maritimes Transportation Commission on behalf of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland.
J. J. FRAWLEY, Q.C., for the Province of Alberta.
C. D. SHEPARD, Q.C., for the Province of Manitoba.
C. W. BRAZIER, for the Province of British Columbia.
J. M. COYNE, for the British Columbia Lumber Manufacturers Association.
HAZEN HANSARD, Q.C., for Dominion Coal and Steel Corporation Limited.
J. K. SMITH, for the Aluminum Company of Canada Limited.
L. A. VERONEAU, for the Montreal Board of Trade.

JUDGMENT

KEARNEY, J., *Chief Commissioner*:

The Railway Association of Canada filed an application dated July 14, 1952, containing several requests. The contents of the application were outlined in some detail in the Board's Judgment thereon dated October 24, 1952, but I will mention here that the application requested, *inter alia*,

- (a) authority to make an immediate general increase of 7 per cent (10 cents to 20 cents per ton on coal and coke) in the tolls or rates of the member companies of the Railway Association in the manner outlined in Schedule "B" thereto (para. 7);
- (b) authority to make a further general increase of 9 per cent (10 cents to 20 cents per ton on coal and coke) in addition to the immediate increase of 7 per cent, and 10 cents to 20 cents per ton on coal and coke, above mentioned (para. 9);
- (c) that Part III of the Railway Association's application dated December 21, 1950, which had been refiled as a separate application on January 19, 1952, by direction of the Board, be consolidated and incorporated in the application of July 14, 1952 (para. 14); Part III included a request that the Board establish for Canadian Pacific Railway a rate base representing the net investment in its railway property and a request that the Board fix for Canadian Pacific a fair rate of return on such rate base;
- (d) that the Board fix as fair for Canadian Pacific in respect of its railway enterprise, a return of not less than 6½ per cent upon the net investment in such railway enterprise (para. 16).

The request contained in the original application dated July 14, 1952, for authority to make an immediate general increase of 7 per cent was subsequently amended on September 22, 1952, to 8 per cent by leave of the Board. Following a hearing, the request for this 8 per cent immediate increase, hereinafter sometimes referred to as the 8 per cent case, was dismissed by the Board through its Judgment dated October 24, 1952.

The hearing in respect of the establishment of a rate base and a fair rate of return commenced on November 10, 1952, and, following suggestions that the application as a whole be clarified, the Railway Association filed an amended application dated January 20, 1953, which amended paragraph 7 of the original application, as amended on September 22, 1952, by requesting authority to make an immediate general increase of 7 per cent (10 cents to 20 cents per ton on coal and coke). This request is herein sometimes referred to as the 7 per cent application or the present immediate application. For the purpose only of that request the applicant accepted the sufficiency of the sum of \$46,644,000 as net railway earnings of the Canadian Pacific set forth in the Board's Judgment dated January 25, 1952, sometimes referred to as the 17 per cent Judgment.

The amended application of January 20, 1953, also made a change in paragraph 9 of the original application of July 14, 1952, by requesting authority to make the further general increase of 9 per cent, and 10 to 20 cents per ton on coal and coke (in addition to the immediate general increase of 7 per cent, and 10 to 20 cents per ton on coal and coke) "forthwith upon the establishment by the Board for the Canadian Pacific of a rate base representing the net investment in its railway property and the determination of a fair rate of return thereon" as requested in the application.

The amended application of January 20, 1953, insofar as it relates to the request for authority to make an immediate general increase of 7 per cent (10 to 20 cents per ton on coal and coke) was heard on January 29 and 30, 1953, and argument thereon was heard on February 2 to 5, inclusive, coincidentally with the argument on the remaining aspects of the original application as amended.

I may also add that the Railway Association filed a separate application dated November 28, 1952, for authority to make an immediate general increase of 9 per cent (10 cents to 20 cents per ton on coal and coke), that a hearing on this application took place on December 15 and 16, 1952, and that Order No. 80462 was issued on December 20, 1952, authorizing the increase applied for.

Although I have referred above to various paragraphs of the application dated July 14, 1952, and amendments thereto, this Judgment pertains only to paragraph 7 of the amended application dated January 20, 1953, for authority to make an immediate general increase of 7 per cent (10 cents to 20 cents per ton on coal and coke).

PROCEDURE ON REVENUE APPLICATIONS

The form of the application dated July 14, 1952, and the several amendments thereto contained multiple requests predicated on separate and distinct bases and gave rise to a considerable amount of confusion and otherwise needless discussion and loss of time. It has also had the effect of making it more difficult for the Board and provincial counsel to view the various aspects of this omnibus application in proper perspective. In this connection, as I indicated to the applicants in the course of the hearing, I was by no means satisfied with the form in which this application was submitted, particularly as all the applicants did not have identical interests in the various remedies sought.

In the event of any future cases, if it appears desirable in the interests of expedition or to obviate needless expense to have the proof offered in an initial application made available for a further or future one, the Board when considering such subsequent application will be disposed to consider on due notice to the opposing party a motion requesting that proof on two or more applications be made common, but it may be anticipated that the Board may henceforth decline to hear multiple requests in a single application and accordingly limit the subject matter of any further application so made.

DISTINCTION BETWEEN THE APPLICATION FOR 8 PER CENT INCREASE CONTAINED IN PARAGRAPH 7 AS AMENDED AND PREVIOUSLY ADJUDICATED UPON, AND PRESENT APPLICATION FOR 7 PER CENT INCREASE AS CONTAINED IN FURTHER AMENDMENT OF PARAGRAPH 7

During the recent hearing the current application for an immediate general increase of 7 per cent as contained in Paragraph 7 of the amended application dated January 20, 1953, was compared with, and perhaps confused with, the application for an immediate general increase of 8 per cent contained in the original application dated July 14, 1952, as amended in Paragraph 7 thereof, upon which the Board rendered judgment under date of October 24, 1952, dismissing the application for the increase applied for. Consideration of the whole matter was further complicated by the fact that a separate application dated November 28, 1952, had been heard and adjudicated upon in the interim.

Counsel for the provinces studying the various dicta laid down in the Judgment dated October 24, 1952, sought to interpret certain principles specified therein and apply such principles to the application for the 7 per cent increase in freight rates now to be determined. In the interests of clarification, I will

elaborate upon the principles on which the Judgment dated October 24, 1952, was founded and indicate their application to Paragraph 7 of the matter now before us.

On Page 4 of the printed pamphlet of the Judgment dated ~~October 24, 1952~~, I made this remark: "It is apparent, I think, that the application for an immediate increase rests on very narrow grounds and, in essence, represents a claim on behalf of the Railway Association that inasmuch as the presently indicated net railway operating income for the calendar year 1952 (actual and estimated) is not now calculated to attain the level of net earnings authorized by the Board in its Judgment dated January 25, 1952, an immediate general increase in freight rates should be authorized to restore the aforementioned position". On page 5 the following passage ensues which, incidentally, was much quoted in the course of the arguments of both the applicant and the respondents. "In my view, the authorization of a level of freight rates which might make it possible for the railways to earn a stipulated net income does not, in any sense, imply a guarantee that such net income will be realized, nor does it imply that if it is not realized the Board will *ipso facto* authorize the railways to raise the level of rates to make good the deficiency. It would appear to me that the occurrence of radically altered circumstances and conditions from those that obtained at the time of the setting of rates now in force must be shown before the Board should authorize an increase in the general level of rates. It also follows that such circumstances should be beyond the control of the railways". Further, on Page 6, I had the following to say: "On the other hand, as I consider that applications such as the present one are untimely a few observations, even though they are in part but a reiteration of what was said in the 17 per cent case may appropriately be made. In previous rate cases the Board had always sought to make awards which had in view not only the requirements of the railways at the time of the application but which would obtain at least until circumstances were so altered that the maintenance of existing rates would be plainly inequitable. The necessity for determining rates which would prevail for at least a reasonable period in the future has been fully recognized."

It is against the background of the Judgment dated October 24, 1952, of which the aforementioned quotations are the epitome and spirit, that the present application for an immediate general increase of 7 per cent should be considered.

At the time of rendering the Judgment on the earlier application for an increase of 8 per cent, the Board was not unaware that radically altered circumstances affecting the operations of the railways might be impending. However, such events had not as yet transpired. The Board was, likewise, not unaware that in all probability the affairs of the railways would shortly again be under review by the Board and that the subsequent occasion would be more opportune than the then present for recognition to be accorded to such increased costs as had been incurred up to that time.

In the interval between then and now two major wage settlements have taken place. The railway companies concluded a settlement on December 19, 1952, with the non-operating employees, effective retroactively to September 1, 1952. The resultant increase in expenses was compensated for in part through the award contained in Order No. 80462 dated December 20, 1952, by the terms of which the railways were empowered to increase rates by 9 per cent (10 cents to 20 cents per ton on coal and coke), being the extent of the relief sought by the railways in respect of the costs of the aforementioned settlement.

In addition, settlement was made early in February, 1953, with a further substantial group of railway employees, involving an increase in rates of pay of 12 per cent and certain other significant considerations yet to be negotiated.

The occurrence of either one of these events would, in my mind, constitute altered circumstance. Coming together these two changes in wages and working conditions constitute, I consider, overwhelmingly altered circumstances. I do

not wish to imply that the mere occurrence of altered circumstance will automatically entitle the railways to an increase in rates but rather that when such events have transpired the Board is prepared, on application, to consider anew the whole subject of rates involving as it does the interests of both the shippers and the railways. Once the subject is re-opened, the Board, of necessity, cannot limit itself to a consideration only of the monetary effect of the single happening that in itself constituted the altered circumstance and render judgment on the basis of restoring or otherwise, through the medium of rates, the financial situation to that which previously existed. It may well be that other factors may have arisen that would offset the cost of the happening which constituted the altered circumstance, thus rendering unjustifiable an increase in rates. On the other hand, contributing changed conditions may have occurred that would not by themselves have been of sufficient magnitude to warrant a change in the existing rate level but nevertheless demand recognition in any reassessment of the whole situation.

If the Board were to restrict itself to a consideration of only short-term specific happenings, the result would be, in this instance, the subjection of the railways' position to a process of attrition.

For the foregoing reasons, I cannot accept the suggestion of provincial counsel that the present application for an immediate increase of 7 per cent is indistinguishable from the prior request for an immediate increase of 8 per cent which the Board dismissed.

CONSIDERATION OF THE BASIS OR FORMULA ON WHICH THE PRESENT APPLICATION SHOULD BE DETERMINED

The Canadian Pacific Railway, as one of the member companies of the Railway Association, made it abundantly clear that insofar as their application requesting the establishment of a rate base and rate of return was concerned they were no longer willing to abide by the formula heretofore adopted by the Board, which frequently has been described as the requirements basis or formula. With respect to the 7 per cent application, however, the Railway Association of Canada, on behalf of all its member companies, not only accepted the requirements basis or formula used by the Board in determining the 17 per cent case in January, 1952, but also accepted, for the purpose of the 7 per cent application, the sufficiency as therein determined for the Canadian Pacific Railway of the sum of \$46,644,000 as net railway earnings to provide overall for fixed charges, dividends and surplus. Hence, if the Board is disposed to use as net earnings of the Canadian Pacific Railway for the constructive year 1952 and for the estimated year 1953 the accepted sum of \$46,644,000, we need only verify that the increase of 7 per cent requested will not expand the estimated annual net earnings of the Canadian Pacific Railway beyond that figure.

Conversely, provincial counsel in their argument against the establishment of a rate base and rate of return as the determining factor in the making of freight rates, strongly urged the Board to retain the requirements basis or formula as heretofore. In the separate 9 per cent application, which the Board granted on December 20, 1952, provincial counsel limited their opposition almost entirely to verifying that the increase then asked for was restricted to such amount as arose through increased labour costs. As the present immediate application is largely based on increased labour costs one might have anticipated that opposition from provincial counsel would be limited accordingly, but this has proved not to be the case.

As a ground for contesting the 7 per cent application, provincial counsel again urged that whilst abiding by the requirements formula heretofore adopted, the Board might, by curtailing allowable expenses of the railways particularly

with regard to maintenance of way and equipment, reduce the need for the 7 per cent increase. I deal later herein with this aspect of the application under the caption of "Maintenance Expenses".

It was also put forward that the Board might now take it upon itself to include in rail income certain revenues such as those from Canadian Pacific Transport Company and Canadian Pacific Airlines which are now carried in the company's books as non-rail items and, by so doing, reduce or, in combination with a curtailment of expenses, eliminate the necessity of granting the 7 per cent application. To make the segregation suggested would necessitate a departure from the formula which the Board has heretofore adopted and which it proposes to follow in this immediate application. It should be noted, however, that in implementing the provisions of Section 380B of the Railway Act as amended in 1951 the Board will cause to be established a governing classification as between rail and non-rail assets and related income for all Canadian railways. Our intended decision respecting a rate base and rate of return for the Canadian Pacific Railway will also necessitate consideration of broader aspects of this same issue of rail and non-rail segregation.

Counsel for the provinces also repeated an objection raised in previous applications. It is based on the contention that the granting of general freight rate increases imposes an unfair burden on those specific segments of our freight rate structure to which the increases apply. The evidence adduced leads us to the conclusion that this argument at least at the present time and for the purposes of this immediate application cannot prevail. Nevertheless, we are having a more detailed study made of the impact of freight rate increases on all types of traffic and we propose in our judgment respecting rate base and rate of return to review fully this aspect of the case.

Before leaving the question of the basis or formula on which the Board intends to determine the present application, I might add that provincial counsel also urged the Board to deny such application for the reason that on the figures of the Canadian Pacific Railway there would still remain to the principal yardstick company the opportunity of earning some surplus, although admittedly not an amount approaching that which had hitherto been found by the Board to be reasonable. I referred in the 17 per cent Judgment to the earning level therein established as being in the nature of an opportunity as opposed to a guarantee that such earnings could be realized, and at the same time expressed doubts based upon past performance that conditions would permit of the goal being attained. Nevertheless, if the railways were to be denied even the opportunity, it could only be justified, in my opinion, on the grounds that it would work an insupportable hardship upon the shippers and the current economy of the country as a whole or that, in the judgment of the Board, the implementation of such rates would not result in the required increase in revenues. I fail to find that at the present time such grounds exist, and in the absence thereof to constantly lower the ceiling of opportunity would inevitably result, figuratively, in forcing the railways through the floor.

Accordingly, as hereinafter more fully set out, the Board has reassessed the whole position within the limits of what were deemed to be reasonable earnings for the railways at the time of the Judgment dated January 25, 1952. In line with this approach we have re-examined the revenues and expenses of both the Canadian Pacific Railway and the Canadian National Railways (Canadian Lines) for the actual and reconstructed 1952 year and for the estimated 1953 year.

FISCAL RESULTS AND THE IMPACT OF RETROACTIVE WAGE AGREEMENTS

The fiscal results of the operations of both railways for the calendar year 1952, as reflected in the exhibits presented to the Board in the course of this case, have not measured up to the standard of earnings which the Board anticipated as a potential earlier in that year.

A major contributory cause is the factor of retroactive wage settlements which, insofar as they relate to 1952 exceed \$24,000,000. In the case of the Canadian Pacific Railway the operations for the calendar year 1952 were called upon to bear an amount of approximately \$6 million additional wage costs relating to the settlement with the non-operating employees which took effect from September 1, 1952. The cost to the Canadian National Railways (Canadian Lines) in the year 1952 of the same settlement with the non-operating employees amounted to \$9,600,000. The 1952 operations may also be called upon to bear the retroactive costs of the February, 1953 settlement made with the trainmen, yardmen, firemen, et al. If the final retroactive terms of this settlement are not established until a date too late to be reflected in the 1952 financial accounts, the 1953 operations will be burdened with this additional cost. The retroactive features for both railways of this latest settlement, insofar as 1952 operations are concerned, involve the further sum of approximately \$9 million in total. It will be apparent that it is quite impossible for the Board to devise any equitable rate schedule that will bear the shocks of retroactive wage settlements of such magnitude. Whereas wage increases can be collected retroactively by employees, freight rate increases cannot be so collected by the railways.

If and when labour agreements are entered into for a determinate time and wage rate revisions are to be discussed, I see no reason in equity why such negotiations should not be concluded during the pendency of the agreement currently in effect thus eliminating the baneful effects of retroactivity. Notwithstanding the many difficult problems involved, it seems to me that enlightened and long-term self-interest of employees and employers alike should be sufficient to commend the above mentioned suggestion.

TOTAL COSTS OF INCREASED WAGE RATES AND PENSIONS, 1952-1953

In addition to the wage rate costs, pension costs also increased substantially in the year 1952. The increase in the year 1952 over 1951 aggregated \$8,852,000 in total for both railways.

The expenses of the Canadian Pacific Railway in the year 1952 and as projected into 1953 are increased by an amount of \$35,200,000 through the cost of wage settlements that have been made since the Board's Judgment dated January 25, 1952. The cost to the Canadian National Railways of the same wage settlements in the same period amounts to \$54,600,000. The cost of pensions will also increase in the year 1953 over 1952 by an amount of \$5,365,000 in total for both railways. Therefore, since the Board's Judgment of January 25, 1952 which awarded a 17 per cent increase in freight rates, the overall increase in costs of wage settlements and pensions alone for the two railways for the year 1952 and as projected into 1953 amounts to approximately \$104 million. The aforementioned figure of \$104 million does not reflect any increased costs that may result from changed working conditions or from the implementation of the forty-hour week that may be included in the ultimate terms of the February, 1953 settlement.

IMPACT AND PRIMARY CAUSE OF CUMULATIVE FREIGHT RATE INCREASES

The not unfavourable comparison as between Canadian and American freight rates and as between Canadian freight rates and cost of living indices which we made when rendering the 17 per cent Judgment a little more than a year ago, is no longer applicable to the same extent. Consequently the Board is becoming increasingly concerned as to the long-term ability of the Canadian economy to continue indefinitely to bear successive increases in freight rates on the scale of the recent past. We have been urged by provincial counsel not to lose sight of the necessity, in the nation's interest, of stemming further

inflationary influences. Even if such a consideration should lie within our competence, this Board, nevertheless, becomes powerless in the face of increased wage costs to the extent with which we are here confronted.

We likewise have been repeatedly warned by counsel for the provinces as to the danger of the railways pricing themselves out of certain important transportation markets in the not too distant future and of the dangers in the approach of the law of diminishing returns. When precisely the saturation point may be reached no one appears to be in a position to say. It also has been indicated to us that if there is a real danger of the railways pricing themselves out of such markets there may be an equal danger of railway labour, in like manner and degree, substantially pricing itself out of its present type of employment.

Notwithstanding the foregoing admonitions, if we are to face up to the cold realism of the existing situation we are compelled to conclude, reluctantly as we may do so, that the railways cannot absorb wage rate increases of the magnitude outlined herein except, in substantial part, through the medium of higher transportation rates.

MAINTENANCE EXPENSES

As previously noted, the Board was again urged by provincial counsel to reconsider the expenditures included in the working expenses of the railways, paying particular attention to the items of Maintenance of Way and Maintenance of Equipment.

Prior to rendering judgment on the 17 per cent case, the Board made inquiry into the accounting principles and practices of the yardstick railway with particular reference to the policies being followed in respect of the accumulation of maintenance charges and the methods of distribution of expenditures as between capital and operations. The Board was then satisfied on that aspect of maintenance as indicated in the Judgment and we can see no justification to reopen the question at this time.

Further, in connection with maintenance expenses, the Board found in the 17 per cent Judgment that the period in which deferred maintenance can be said to exist, insofar as the Canadian Pacific Railway is concerned, would cease within the fiscal year ended December 31, 1952. The foregoing had the effect of applying the balance remaining in the deferred maintenance fund in reduction of the expenses of 1952 and the consequent corresponding restriction of the increased freight rates then applied for. The deferred maintenance fund being now exhausted, the current expenditure to be provided for can no longer be relieved from that source.

Since the termination of the recent hearing, the Board has had appropriate analyses made of the trends of Canadian Pacific Railway maintenance expenditures over a period of several years in comparison with those of the Canadian National Railways, whose accounts are subject to annual scrutiny by the designated committee of Parliament, and with those of representative Class I railways of the United States, whose accounts are subject to scrutiny by the Interstate Commerce Commission. In these analyses due weight has been given, *inter alia*, to differing accounting policies in respect to such matters as deferred maintenance and depreciation. The analyses indicate no distinguishable trends of unwarranted expenditures in the overall maintenance programs of the yardstick railway company.

The Board, notwithstanding, is fully aware that it is always within the range of the possible to curtail maintenance expenses in any one selected short-term period. However, we are convinced both from our own experience and our historical studies on this subject that benefits from maintenance curtailment are largely illusory in an economic sense—unless there are clearly in evidence an impending period of disuse of the operating facilities or the mismanagement factors of waste or extravagance. We believe that a policy of artificially

reducing necessary expenditures by restricting current maintenance would not be in the long-term interests of the country at large, the shippers or the railways. This is particularly true at the present time when operating facilities are being subjected to maximum demand and use and when the national economy is running at a high level of prosperity. In more specific elaboration of this policy, it can be stated that the Board conceives it to be one of its public responsibilities, and certainly in a field so vital as that of maintenance, to pattern its actions so as to avoid placing the railways in any position that would cause them to defer legitimate expenditures of this character to some future period with the many contingencies inherent therein.

We are also convinced that for the Board arbitrarily to bring about a reduction of maintenance expenditures, directly, or indirectly through the specific denial of rates, would constitute a substitution of its judgment for that of railway management—who must continue to be held directly responsible for the flow of traffic and the safety of human life. This substitutional judgment policy, short of proven economic justification, the Board declines to establish.

OPERATING SAVINGS THROUGH MODERNIZATION OF FACILITIES

Having in mind the experience of certain United States railways over a period of the immediately past several years in the area of legitimate cost savings one could, for example, anticipate an expansion of similar savings in progressive steps on the Canadian railways through their presently planned modernization of operating facilities such as the dieselization of motive power. In that connection, however, I observed in the recent hearings some paucity of specific technical evidence submitted in response to repeated inquiries by provincial counsel on the subject of operating dollar savings actually realized or anticipated through the conversion from steam to diesel power. I would look for a greater degree of particularity in such evidence in subsequent hearings in view of the fact that the purported necessity for increased rail earnings in the future was related by the applicant to the contemplated heavy capital requirements of the Canadian Pacific Railway over the next five years, a considerable portion of which capital is to be employed in the carrying out of modernization programs.

CONCLUSIONS

Including the 7 per cent increase currently sought by the applicants, even if that increase were possible of realization for the full twelve months of 1953 (which of course it is not), the estimated net rail earnings of the Canadian Pacific Railway as now recast by the Board for the calendar year 1953 and applied in relation to the net rail investment, indicate that the return to the "yardstick company" will be within that which was found allowable in testing the reasonableness of the earnings of \$46,644,000 permitted by the 17 per cent Judgment dated January 25, 1952, to cover fixed charges, dividends and surplus. In the recasting of the 1953 earnings estimates, we have given full cognizance, *inter alia*, to the incidence of the downward revision in income taxes contemplated in the Budget released on February 19 last.

The estimates of the Canadian National Railways (Canadian Lines) as recast by the Board for the calendar year 1953 indicate, even with the inclusion on a twelve months basis of the 7 per cent increase now applied for, that the prospective net earnings of the National Railways for the current year will be within those limits that heretofore have been envisaged in arriving at allowable rates.

The adoption by the Board, in their consideration of the immediate 7 per cent increase, of the requirements basis or formula that has emerged from the series of post-war revenue cases should not be taken as indicating that I am disposed indefinitely to perpetuate its use. In the 17 per cent Judgment I made

reference in the following words to the fact that it was not deemed to be a perfect vehicle, "In this, and in succeeding revenue applications, that come before us I think the Board should scrutinize its formula with a view to improving it". This question will, no doubt, again be before the Board when considering the disposition of the remaining aspects of the July 14, 1952 application.

The adoption, *inter alia*, of the testing of reasonableness gauged by the return of the net earnings in relation to the net rail investment of the Canadian Pacific Railway does not, in any sense, infer that the Board has accepted the underlying figures or the principles involved in that portion of the July 14, 1952 application that is now known as the "rate base and rate of return" case. As previously mentioned herein, this whole matter, including the co-related January 20, 1953 application for a further general increase of 9 per cent in rates, will be the subject of a separate and later judgment. In this connection, the Board has decided, both for the purpose of arriving at a figure of net rail investment of the Canadian Pacific Railway in connection with the determination of the remaining facets of the July 14, 1952 application and other useful purposes that the Board has in mind, to conduct an independent investigation into this phase at the earliest practicable date.

Upon consideration of all the contributing factors previously outlined in this judgment and all that has been laid before us in evidence and argument, I have come to the conclusion that the application of the Railway Association of Canada for an immediate general increase of 7 per cent (10 cents to 20 cents per ton on coal and coke) in the tolls or rates of its member companies in the manner outlined in Schedule "B" attached to the application is necessitated by the existing costs of railway operation in relation to immediately prospective revenues and that the increase applied for should be authorized. An order will be promulgated accordingly, permitting such increase to become effective not earlier than the 16th day of March, upon not less than five days' notice.

JOHN D. KEARNEY.

I concur:

HUGH WARDROPE

I concur:

O. A. MATTHEWS

March 6, 1953.

ORDER No. 80965

In the matter of the application dated January 20, 1953, of the Railway Association of Canada on behalf of the member companies listed in Schedule "A" thereto, hereinafter called the "Applicant", under Section 325 and all other relevant sections of the Railway Act, and under Sections 3 and 9 of the Maritime Freight Rates Act, for authority to make an immediate general increase of 7% (10¢ to 20¢ per ton on coal and coke) in their tolls or rates for the carriage of freight traffic on their lines in Canada:

File No. 46920.2

FRIDAY, the 6th day of March, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner*.
 HUGH WARDROPE, *Asst. Chief Commissioner*.
 O. A. MATTHEWS, *Commissioner*.

Upon hearing the matter at sittings of the Board at Ottawa on January 29, 30, and February 2 to 5, inclusive, 1953, in the presence of counsel for the Applicant, and of counsel for and representatives of the Provinces of Alberta, British Columbia, Manitoba and Saskatchewan, the Maritimes Transportation Commission on behalf of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland, and of counsel for the British Columbia Lumber Manufacturers Association, Dominion Coal and Steel Corporation Limited, and representatives of the Aluminum Company of Canada Limited and the Montreal Board of Trade—

It is ordered that:

1. As hereinafter stated in paragraphs numbered 2 and 3, the Applicant may increase, effective not earlier than March 16, 1953, on not less than five days' notice, rates and charges now in effect, and, subject to all relevant provisions of the Railway Act, those which have been filed to become effective on a subsequent date, by a master tariff setting out the increases herein authorized and by supplements to the tariffs involved to connect such tariffs with the master tariff; or, alternatively, by incorporating such authorized increases in the individual rates and charges affected.

AUTHORIZED INCREASES

2. Coal and Coke:

Where present rates are:

	<i>Increase per ton for single or joint line hauls</i>
Not over \$1.00 per ton.....	10 cents
Over \$1.00 and not over \$2.00 per ton....	15 cents
Over \$2.00 per ton.....	20 cents

3. Subject to the exceptions specified in paragraph numbered 4 hereof, an increase of seven (7) per cent in rates in the tariffs, and in the charges for the services, specified below:

Class Rates.

Commodity Rates (other than coal and coke).

Miscellaneous railway services specified below:

Milk and Cream in passenger and freight service.

Protective Service.

Collection-on-delivery service.

Switching, other than interswitching and intermediate inter-switching.
 Special Freight Trains.
 Crane Service.
 Railway Equipment on own wheels.
 Diversion.
 Dockage.
 Livestock cars—cleaning, disinfecting, partitions, slatting.
 Out-of-line hauls.
 Re-assembling.
 Reconsignment.
 Rental for special equipment.
 Stop-off Charges, except the charge specified in Section 59(4) of the Canada Grain Act, of one cent for each cental, less three dollars.
 Storage.
 Terminal Charges at Canadian Ports.
 Wharfage.
 Yardage on Livestock.
 Other accessorial, terminal and special services not herein specified.

EXCEPTIONS

4. The provisions of this Order do not apply to:
 - (a) carload rates on grain and grain products subject to the provisions of Section 325 (5) of the Railway Act, from all points on all lines of railway west of Fort William, Ontario, to Fort William, Port Arthur and Armstrong, Ontario;
 - (b) export carload rates on grain and grain products from all Prairie points on all lines of railway to Vancouver, Prince Rupert and other British Columbia coast ports;
 - (c) joint international rates (except rates on coal and coke) between Canada and the United States of America;
 - (d) rates between United States points on traffic passing through Canada;
 - (e) export and import rates to and from Canadian ports which are maintained on a parity with rates to or from United States ports;
 - (f) demurrage charges;
 - (g) minimum charges for single less than carload shipments.

DIFFERENTIALS

5. Recognized differentials via rail-water-rail routes to be preserved as far as may be practicable, even though certain rates via differential routes may be lower or higher than would otherwise prevail if such rates were subjected to the increases herein authorized.

DISPOSITION OF FRACTIONS

6. Where rates without increases are:
 5 cents or lower:

Fractions less than .125, drop;
 Fractions .125 and under .375, make $\frac{1}{4}$ cent;
 Fractions .375 and under .625, make $\frac{1}{2}$ cent;
 Fractions .625 and under .875, make $\frac{3}{4}$ cent;
 Fractions .875 and over, make next whole cent.

Over 5 cents and not higher than 10 cents:

Fractions less than .25, drop;

Fractions .25 and under .75, make $\frac{1}{2}$ cent;

Fractions .75 and over, make next whole cent.

Higher than 10 cents:

Fractions less than .5, drop;

Fractions .5 and over, make next whole cent.

The foregoing to apply whether the rates are expressed in cents per 100 pounds or other unit, or in dollars and cents per car or other unit.

COMBINATION RATES

(Other than coal and coke)

7. Where rates are made by combining separately stated rates, each factor of such combination will be increased separately. Where a rate is shown in a tariff as composed of two or more factors, each such factor will be increased separately and the increased rate will be the total of the factors so increased.

RELIEF FROM PROVISIONS OF TARIFF CIRCULAR NO. 1

8. With respect to tariff schedules giving effect to changes in rates as herein authorized, the provisions of the Board's Tariff Circular No. 1, may be waived as to notice, volume of supplemental matter, approval, and form of tariffs.

CONSOLIDATION OF INCREASES

9. Increases in rates previously authorized by Order No. 80462 dated December 20, 1952, and applied by master tariff, shall be consolidated with those herein authorized.

HUGH WARDROPE,
Assistant Chief Commissioner.

The Board of Transport Commissioners for Canada

INDEX TO VOL. XLII

OF

JUDGMENTS, ORDERS, REGULATIONS AND RULINGS OF THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA FROM APRIL 1, 1952, TO MARCH 31, 1953

A	PAGE
Abandonment of passenger service—Vancouver and Lulu Island Railway Company—C.P.R.—and British Columbia Electric Railway Company Limited	178
Order No. 79357	180
Abandonment of operation—Westport Subdivision—C.N.R.—between Lyn Junction and Westport, Ontario	96
Order No. 79236	99
Abitibi Navigation Company Limited—Licence for Water Transportation—Order No. 78558	25
Acadia Coal Company Limited— <i>re</i> bridge over its tracks	305
Order No. 80699	308
Accidents reported to the Board—	
February 1952	29
March 1952	52
April 1952	75
May 1952	88
June 1952	143
July 1952	157
August 1952	188
September 1952	222
October 1952	262
November 1952	281
December 1952	283
January 1953	320
Acids by express—General Order No. 777	63
Agreed charge tariff C.T.C. (AC) No. 46—	
Order No. 78851	50
Order No. 79133	71
Agreed charge tariff C.T.C. (AC) No. 11—	
Order No. 79047—Supplement No. 20	71
Agreed charge—Petroleum products—British American Oil Co., C.N.R., and C.P.R. ..	86
Agreed charge—Petroleum from Refineries and Marine Terminals in Ontario (also Hull and Hull West, P.Q.), to points in Ontario (also Hull and Hull West, P.Q.)—	
Order No. 79275	87
Agreed charge tariff C.T.C. (AC) No. 46—	
Order No. 79358—Supplement No. 3	102
Agreed charge tariff C.T.C. (AC) No. 47—	
Order No. 79359—Supplement No. 1	102
Agreed charge—Imperial Oil Limited—	
Order No. 79545	116
Agreed charge C.T.C. (AC) No. 48	121
Order No. 79470	128

Agreed charge—Petroleum products—	
Order No. 79770	186
Agreed charge—McColl-Frontenac Oil Company	220
Agreed charge tariff C.T.C. (AC) No. 47—	
Supplement No. 2	227
Agreed charge tariff C.T.C. (AC) No. 14—	
Supplement No. 10	227
Agreed charge—Canadian Freight Association—	
<i>re</i> approval of an agreed charge	228
Agreed charge C.T.C. (AC) No. 46—	
<i>re</i> petroleum	229
Agreed charge tariff C.T.C. (AC) No. 46—	
Order No. 80320—Supplement No. 4	245
Agreed charge tariff C.T.C. (AC) No. 11—	
Order No. 80418—Supplement No. 22	261
Agreed charge on oils, greases and petroleum products	291
Alberta Government— <i>re</i> interchange facilities between C.N.R. and C.P.R. at Lloydminster	93

B

Bags—used and/or processed burlap or cotton bags	213
Bell Telephone Company of Canada—	
Revision of certain tariffs of rates for exchange services—Order No. 78314	1
Bell Telephone Company of Canada—	
Filing of tariffs—Order No. 80909	315
Bridge in line with Notre Dame Street, Montreal, P.Q., mileage 1.5, Park Avenue Subdivision, C.P.R.	149
Order No. 79676	153
Bridge over Toronto, Hamilton & Buffalo Railway at Main Street West, Hamilton Ontario	256
Order No. 80254	261
Bridge over tracks of Acadia Coal Company Limited	305
Order No. 80699	308
British Columbia Electric Railway Company Limited—	
<i>re</i> standard passenger tariff C.T.C. 50 applying between stations on the Vancouver, Fraser Valley & Southern Railway Company and The Van- couver and Lulu Island Railway Company—Order No. 78699	40
British Columbia Telephone Company—	
Extended area service with Vancouver and Victoria Exchanges	69
British Columbia Telephone Company—Extended Area Service between New West- minster and Vancouver Exchanges	181
British Columbia Electric Railway Company Limited <i>re</i> abandonment of passenger service	178
Order No. 79357	180
British Columbia Telephone Company—for an increase in rates and charges	251
Order No. 80334	254
British Yukon Railway Company—Freight Classification No. 7—	
Order No. 78572	25
British Yukon Navigation Company Limited for a licence under Section 10 of The Transport Act 1938—	
Order No. 78890	51

C

Canada Steamship Lines Limited—and Northern Navigation Company Limited Licence for water transportation—	
Order No. 78533	23
Canada Steamship Lines Limited—Licence for water transportation—	
Order No. 80902	313
Order No. 80903	314

Canadian Freight Association—Agreed Charge Tariff C.T.C. (AC) 41	116
Canadian Freight Classification No. 19, C.T.C. 983	245
Canadian Pacific Railway Company—Standard Mileage Freight Tariff C.T.C. No. E5189—	
Order No. 78605	26
Canadian Freight Association—Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 46—Order No. 78851	50
Order No. 79047—Supplement 20 to Agreed Charge Tariff, C.T.C. No. 11	71
Supplement No. 3 to Agreed Charge C.T.C. (A.C.) No. 46—Order No. 79358	102
Canadian Used Textile Bag Dealers' Association	213
Canned goods—rates by water to Fort William and Port Arthur—	
Order No. 78869	57
Carload rates on grain and grain products within Western Canada	233
Order No. 80024	236
Circular No. 271—Protection installed at crossings	39
Circular No. 272—Reduction in freight rates between points in Eastern Canada and points in Western Canada (see Order No. 78767—page 39)	37
Circular No. 272—Amendment No. 1—Amendment No. 2 (will appear in June 1, 1953 issue of J.O.R. & R.)	141
Coal and coke, international shipments	276
Compressed gases by express—	
General Order No. 777	63
Courtenay to Campbell River and Duncan Bay—British Columbia extension of line	113
Esquimalt and Nanaimo Railway—Order No. 79381	116
Current River, Ontario (near) C.N.R. crossing—Mileage 145·84—Lakehead Sub-division	303
Order No. 80750	304

D

Dangerous articles by freight—General Order No. 780	272
Dufferin Street, Toronto, Ontario—Grade separation	193
Order No. 79829	196

E

Eight per cent Rates Case (Supplement No. 14A of J.O.R. & R. dated October 24, 1952)	1
Equipment on passenger and mixed trains—	
General Order No. 783	297
Equalization Case—Supplement No. 18A, dated December 23, 1952	1
Erratum—	
Order No. 80462	297
Exchange rate <i>re</i> freight shipments between Canada and U.S.A.	276
Explosives by express—	
General Order No. 777	63
Explosives and other dangerous articles by freight	272
Esquimalt and Nanaimo Railway—train service, passenger terminal at Nanaimo, B.C. and extension of line from Courtenay to Campbell River and Duncan Bay, B.C.	113
Order No. 79381	116

F

Filing of Tariffs—Bell Telephone Company—	
Order No. 80909	315
Filing of Tariffs (Ry. Association of Canada) Amendment to Order No. 3258, dated July 6, 1907	187
Fire extinguishers for use in passenger cars—	
General Order 776	63

Freight rates—Reduction between points in Eastern Canada and points in Western Canada—	
(See Order No. 78767—Page 39)	37
Freight rates between points in Eastern Canada and points in Western Canada—	
(Amendment No. 1 to Circular No. 272)	141
Freight rates—8 per cent increase—	
Supplement No. 14A—October 24, 1952	1
Freight Classification No. 19, C.T.C. 983—	
Order No. 80250—Supplement No. 31	245
Freight rates—Application for a general increase—	
Order No. 80462	269
See "ERRATUM"	297
Freight rates—Seven per cent increase 24A	1
Freight rates—Equalization—	
Supplement No. 18A, dated December 23, 1952	1
Freight Tariff (Standard Mileage) C.T.C.—	
No. E5189—Order No. 78605	26

G

General Order No. 776—Fire Extinguishers	63
General Order No. 777—Transportation by express of acids, explosives, etc., and specification for shipping containers	63
General Orders Nos. 778 and 779 will appear in June 1, 1953 issue of J.O.R. & R.	
General Order No. 780—Regulations for the transportation of explosives and other dangerous articles by freight and specifications for shipping containers	272
General Order No. 781—Rate of exchange <i>re</i> freight shipments between points in Canada and points in U.S.A.	276
General Order No. 782—Operating Rules	295
General Order No. 783—Regulations <i>re</i> handling of vestibule doors, platforms, curtains, guard rails, side and end gates, chains and bars on equipment on passenger and mixed trains	297
Georgian Bay Tourist and Steamships Limited—licence for water transportation.	
Order No. 79172	79
Gladstone, Man., Town of, <i>re</i> Morris Street Crossing	137
Order No. 79652	140
Grade Separation—Dufferin St. Toronto, Ont.	193
Order No. 79829	196
Grain and grain products in Western Canada	163
Order No. 79660	177
Grain and grain products within Western Canada— <i>re</i>	
General Order No. 125	233
Order No. 80024	236
Reasons for Judgment	236
Guard rails on passenger and mixed.	

H

Hamilton, Ont. Bridge over T.H. & B. Ry. Co. at Main St. West	256
Order No. 80254	260
Highway crossing inquiry—	
P.C. 1953-52	290
Hudson's Bay Co.—Standard Freight Tariff C.T.C. No. F-8—	
Order No. 78989	64
Hudson's Bay Co.—Licence for water transportation—	
Order No. 79296	85
Order No. 79816	187

I

Imperial Oil Ltd.— <i>re</i> Agreed Charge	116
Import and export traffic between Canadian ports and stations in Canada and to and from Newfoundland and Islands of St. Pierre and Miquelon	100
Inflammables by express—General Order No. 777	63
Increase (8 per cent) in Freight Rates—Supplement No. 14A—	
October 24, 1952	1
Interchange Facilities between C.N. Rys. and C.P.R. at Lloydminster	93
Order No. 79301	95
International traffic	100
International shipments	276

L

Lakehead Subd. C.N.R. crossing at mileage 145.84	303
Order No. 80750	304
Lake of the Woods Milling Co. <i>re</i> Stop-off and out-of-line Haul Charges on grain and grain products in Western Canada	163
Order No. 79660	177
Licence C.P.R. under Section 19 of The Transport Act, 1938—	
Order No. 80768	297
Local mileage rates on grain and grain products within Western Canada	233
Order No. 80024	236
Reasons for Judgment	236

M

Main St. Crossing, Portage la Prairie, Man.	182
Order No. 79782	185
Main St. West, Hamilton, Ont.—	
Bridge over T.H. & B. Ry.	256
Order No. 80254	260
Maritimes Transportation Commission— <i>re</i> Wharfage charges	47
Morris St. crossing, Gladstone, Man.	137
Order No. 79652	140

Mc

McColl-Frontenac Oil Co.— <i>re</i> Agreed Charge Tariff C.T.C.	
(AC) No. 41	220
McInnes Products Corp. Ltd. Licence for water transportation—Order No. 78620 ..	28
McInnes Products Corp. Ltd.—Standard Freight Tariff C.T.C.	
No. 8—Order No. 78865	50

N

Nanaimo, B.C. Passenger terminal, E. & N. Ry.	113
Order No. 79381	116
Niagara, St. Catharines & Toronto Ry. Co. <i>re</i> Standard Passenger Tariff C.T.C. No. 627 (Order No. 78604)	27
Northern Navigation Co. Ltd.—Licence for water transportation—	
Order No. 78460	16
Northern Transportation Co. Ltd.—Licence for water transportation—	
Order No. 78601	26
Order No. 79295	86
Northern Transportation Co. Ltd. for approval of Standard Freight Tariff C.T.C. No. 19 covering tolls of licensed water carriers within the Mackenzie River watershed—	
Order No. 78821	49
Northwest Steamships Ltd.—Licence for water transportation—	
Order No. 80897	313

Northern Navigation Co. Ltd.—Licence for water transportation—	
Order No. 80902	313
Order No. 80903	314
Notre Dame Street Bridge, Montreal, P.Q.	149
Order No. 79676	153

O

Ogilvie Flour Mills Co. Ltd.— <i>re</i> Stop-off and out-of-line Haul Charges on grain and grain products in Western Canada	163
Order No. 79660	177
Operating Rules—	
General Order No. 782	295
Oxidizing substances by express—	
General Order No. 777	63

P

Passenger terminal at Nanaimo, B.C. E. & N. Ry.	113
Order No. 79381	116
Pembroke, Ont.—Spur to serve Pembroke Shook Mills, Limited	154
Order No. 79708	156
Petroleum products, in carloads, in tank cars only from Moose Jaw, Sask. to points in Manitoba. Order No. 79133	71
Petroleum products from refineries and marine terminals in Ontario (also Hull and Hull West, P.Q.) to points in Ontario (also Hull and Hull West, P.Q.) order No. 79275	87
Petroleum products—Agreed Charge—	
Order No. 79770	186
Petroleum—Agreed Charge—	
Order No. 80235	229
Pipe Line—Westcoast Transmission Co. Ltd.	77
Pipe Line—Westcoast Transmission Co. Ltd.	207
Order No. 79957	212
Platforms on passenger and mixed trains—	
General Order No. 783	297
Port Arthur, Ont., crossing C.N.R. near Current River, at Mile 145.84, Lakehead Subdivision	303
Order No. 80750	304
Portage la Prairie, Man.— <i>re</i> Tupper Street Crossing	182
Order No. 79782	185
Portage la Prairie, Man.—Main Street crossing	182
Protection at crossings—Circular No. 271	39
Privy Council P.C. 1953-52	290

R

Railway Ass'n. of Canada—freight traffic for export to Canadian and United States Atlantic Seaboard—	
Order 79665	142
Railway Association of Canada—Amendment to Order No. 3258, dated July 6, 1907 —Filing of Tariffs	187
Railway-Highway crossing problem P.C. 1953-52	290
Rate of exchange <i>re</i> freight shipments between Canada and United States	276
Regulations for the transportation of explosives and other dangerous articles by freight—	
General Order No. 780	272
Rimouski, P.Q.—Subway at mileage 19.2, Rimouski Subd. C.N.R.	309
Order No. 80835	312
Robin Hood Flour Mills Ltd. <i>re</i> Stop-off and out-of-line	
Haul Charges on Grain and Grain products in Western Canada	163
Order No. 79660	177

S

Sanders, Charles—for a licence under Section 10 of the Transport Act, 1938.....	18
Seguin, J. J. Co. Ltd.—allowances for stakes used for loading shipments of lumber and forest products in open top cars	217
Order No. 79977	177
Seven per cent rates increase—	
Supplement No. 24A, dated March 15, 1953	1
Shipping Containers for explosives and other dangerous articles by freight	272
Shipping Containers—for explosives, etc., by express—	
General Order No. 777	63
Specifications for shipping containers (explosives, etc. by express)—General Order 777	63
Specifications for shipping containers for transportation of explosives and other dangerous articles by freight.	
General Order No. 780	272
Stakes—see Seguin J. J. Co. Ltd.	
Stop-off and out-of-line Haul Charges on grain and grain products in Western Canada	163
Order No. 79660	177
Stop-off Charges—ERRATUM—re Order No. 80462	297
Subway at mileage 19.2 Rimouski Subd., C.N.Ry.,	
Rimouski, P.Q.	309
Order No. 80835	312
Summary of Orders. 78319 to 78423	19
78424 to 78570	31
78571 to 78702	42
78703 to 78787	54
78788 to 78918	65
78919 to 79031	72
79032 to 79169	80
79170 to 79257	90
79258 to 79357	103
79358 to 79484	107
79485 to 79568	117
79569 to 79665	145
79666 to 79750	159
79751 to 79828	190
79829 to 79946	202
79947 to 80041	221
80042 to 80119	230
80120 to 80245	246
80246 to 80389	264
80390 to 80461	277
80462 to 80587	286
80588 to 80653	293
80654 to 80755	298
80756 to 80831	318
Supplement to J.O.R. & R. No. 14A dated October 24, 1952 re 8 per cent increase in freight rates	1
Supplement to J.O.R. & R. No. 18A, dated December 23, 1952, re Equalization of Freight Rates	1
Supplement to J.O.R. & R. No. 18A, dated December 23, 1952, re Equalization of 7 per cent in freight rates	1
Swift Canadian Co. Ltd. re absorption of National Harbours Board switching charges and amount of absorption of Top Wharfage charges (see oral judgment— Page 48)	47

T

Tariffs, filing of tariffs in substitution for present tariffs governed by Order No. 3258	187
Tariffs, filing of, Bell Tel. Co.—	
Order No. 80909	315
Telegraph tolls—	
Order No. 80694	292
Telephone rates—Bell Tel. Co.	1
Thorburn Subd. C.N. Rys. <i>re</i> bridge over tracks of Acadia Coal Co. Ltd.	305
Order No. 80699	308
Toronto, Ont.—Grade separation on Dufferin Street	193
Order No. 79829	196
Toronto, Ont.—Woodbine Ave. Subway	197
Order No. 79828	201
Tupper St. Crossing, Portage la Prairie, Man.	182
Order No. 79782	185

U

Uniform Code of Operating Rules	295
Upper Lakes and St. Lawrence Transportation Co. Ltd.—for a licence under Section 10 of The Transport Act, 1938.	
Order No. 78553	24

V

Vancouver Island Ratepayers' Ass'n. train service E. & N. Ry. to and from Victoria and Alberni; to and from Victoria and Courtenay	113
Order No. 79381	116
Vancouver & Lulu Island Ry. Co. for abandonment of passenger service	178
Order No. 79357	180
Vestibule doors on passenger and mixed trains—	
General Order No. 783	297
Vezina, Joseph—Drainage System at St. Francois de Sales Station, P.Q.	129
Judgment in French	133

W

Westcoast Transmission Co. Ltd.	207
Order No. 79957	212
Westcoast Transmission Co. Ltd. Gas pipe line from Alberta and/or British Columbia	77
Western Grocers Ltd.—Rates on canned goods by water to Fort. William and Port Arthur—Order No. 78869	57
Westport Subd. C.N.R.—Abandonment of operation between Lyn Jct. and Westport, Ont.—Order No. 79236	96, 99
Wharfage charges	47
Woodbine Ave. Subway, Toronto, Ont.	197
Order No. 79828	201

Y

Yankcanuck Steamships Ltd.—Licence for water transportation—	
Order No. 78765	41
Yellowknife Transportation Co.—Licence for water transportation—	
Order No. 78478	18
Order No. 78822	49

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

April 1, 1953

No. 1

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORAL JUDGMENT

Delivered at conclusion of hearing
held at Ottawa on February 6, 1953.

In the matter of the application of Trans Mountain Oil Pipe Line Company, hereinafter called the "Applicant", under sections 11 and 12 and other relevant sections of The Pipe Lines Act, for an Order granting the Applicant leave to construct a pipe line, consisting of one or more lines of pipe, for the transportation of oil from a point in Section 28, Township 19, East of the Coast Meridian, in the Province of British Columbia, thence in a southwesterly direction for approximately 5.5 miles to a point on the International Border between Canada and the United States of America in Section 6, Township 19 East of the Coast Meridian.

File No. 45371-14-51

WARDROPE, HUGH, Assistant Chief Commissioner.

This is an application of the Trans Mountain Oil Pipe Line Company, hereinafter called the "Applicant", under Sections 11 and 12 and other relevant sections of The Pipe Lines Act, for an Order granting the Applicant leave to construct a pipe line, consisting of one or more lines of pipe, for the transportation of oil from a point in Section 28, Township 19, East of the Coast Meridian, in the Province of British Columbia, thence in a southwesterly direction for approximately 5.5 miles to a point on the International Border between Canada and the United States of America in Section 6, Township 19, East of the Coast Meridian.

Following a hearing before the Board on the 7th day of January, 1953, the Board issued Order No. 80561 dated the same day giving directions to the Applicant to serve copies of the application and of a map filed therewith and Order No. 80561 on the Attorneys General of the Provinces of Alberta and British Columbia; also that the applicant mail not later than the 14th day of January 1953, copies of the application, of a map filed with this application and of Order No. 80561 upon the Public Utilities Commission of British Columbia and the Municipality of Sumas, British Columbia; and also that the applicant cause to be inserted prior to the 17th day of January, 1953, a notice in the form attached to Order 80561 in four issues of a newspaper published in the City of Vancouver.

At the hearing today the Board has been satisfied that the directions in the above order have been fully complied with.

Mr. J. J. Frawley, Q.C., appearing on behalf of the Attorney General of the Province of Alberta advised the Board that in so far as the Province of Alberta was concerned there was no objection to the application.

Evidence was filed that the Attorney General of the Province of British Columbia was not appearing upon the application and it was understood that the Province of British Columbia was making no objection thereto.

Mr. R. W. MacLean appeared on behalf of the Department of Trade and Commerce and advised the Board that the Department was prepared to issue a permit for the construction of the line, and it was understood from Mr. MacLean that when required, following construction of the line, an export permit would be forthcoming.

No person or party appeared in opposition to the application.

We are satisfied as to the financial responsibility of the Applicant, that there is a sufficiency of oil for the project and of the potential market therefor. We do not feel, nor is there any evidence to show, that any public interest would be adversely affected by the granting of the application.

The Applicant having satisfied the Board as to all considerations with respect to the application which appear to the Board to be relevant, the Board grants the application and an order will issue to that effect and will direct that the construction of the proposed pipe line is to be completed on or before October 31, 1954.

Concurred in by the Deputy Chief Commissioner, Mr. ARMAND SYLVESTRE, Q.C.

ORDER No. 80773

In the matter of the application of Trans Mountain Oil Pipe Line Company, hereinafter called the "Applicant", under sections 11 and 12 and other relevant sections of The Pipe Lines Act, being chapter 20 of the Statutes of Canada, 1949, for an Order granting the Applicant leave to construct a pipe line, consisting of one or more lines of pipe, for the transportation of oil from a point in Section 28, Township 19, East of the Coast Meridian, in the Province of British Columbia, thence in a southwesterly direction for approximately 5.5 miles to a point on the International Border between Canada and the United States of America in Section 6, Township 19 East of the Coast Meridian.

File No. 45371-14-51

FRIDAY, the 6th day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon hearing the application at the sittings of the Board held in Ottawa on February 6, 1953, in the presence of Counsel for the Applicant and for the Province of Alberta—

It is ordered that leave be, and it is hereby, granted to Trans Mountain Oil Pipe Line Company to construct a pipe line, consisting of one or more lines of pipe, for the transportation of oil from a point in Section 28, Township 19, East of the Coast Meridian, in the Province of British Columbia, thence in a southwesterly direction for approximately 5.5 miles to a point on the International Border between Canada and the United States of America in Section 6, Township 19, East of the Coast Meridian; the general location of the pipe line being as shown on the map dated December 31, 1952, filed with the Board under file No. 45371-14-51; the said pipe line to be constructed and completed on or before the 31st day of October, 1954.

HUGH WARDROPE,

Assistant Chief Commissioner.

In the matter of the application of The Toronto, Hamilton and Buffalo Railway Company for Orders under Sections 181, 182, 183, 193, 252 and 255 of the Railway Act: (1) Authorizing the construction, maintenance and operation of a branch line of railway or spur extending from a point on the Belt Line of the Applicant immediately east of Wellington Street in the City of Hamilton to a junction with the tracks of the Canadian National Railway Company as shown on Railway plan No. 356 filed with the application. (2) Authorizing the Applicant to carry the proposed branch line across Wellington Street and Ferrie Street. (3) Authorizing the Applicant to join the said branch line with the tracks of the Canadian National Railway Company at or near the point marked "N" as shown on the said plan. (4) Authorizing the Applicant to use the tracks of the Canadian National Railway Company from the said point "N" to the respective junctions of the said tracks with the south side of Burlington Street at points "C", "P", and "E" and to have and exercise full right and power to run and operate its trains over and upon the said tracks freely and jointly with the Canadian National Railway Company. (5) Authorizing the Applicant to operate over the tracks owned by The Hamilton Harbour Commissioners commencing on the south side of Burlington Street and running across Burlington Street to and into the lands of the said Hamilton Harbour Commissioners.

File No. 42303

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Hamilton, Ontario, on January 28, 1953.

Appearances:

H. SOULE, for the Toronto, Hamilton and Buffalo Railway Company.

A. D. McDONALD, Q.C., and W. HEWSON, for the Canadian National Railways.

A. J. POLSON, Q.C., for the City of Hamilton.

K. D. M. SPENCE, for the Canadian Pacific Railway Company.

H. SIMPSON, Q.C., for the Canadian Shipping Companies.

JUDGMENT

CHASE, Commissioner:

In this case the Applicant, The Toronto, Hamilton and Buffalo Railway Company, seeks an Order authorizing it to construct a short piece of track to connect with trackage owned by the Respondent, the Canadian National Railways, and to operate over the said trackage in order to service industries located on property owned by the Hamilton Harbour Commission, the application being filed with the Board under date of May 5, 1952.

In its answer dated October 21, 1952, the Respondent opposed the application, asked that it be dismissed or, in the alternative, that it be put down for hearing. The Board being of the opinion that the matter should be heard, it was accordingly scheduled for a hearing in the City of Hamilton on January 28, 1953.

During the hearing evidence was submitted showing that nine firms were located and doing business on property owned by the Hamilton Harbour Commission and, in addition, the Commission itself was operating a warehouse, all switching being conducted exclusively by the Respondent (See Exhibit No. 10).

Witnesses appeared for the Applicant, the Hamilton Harbour Commission and for several of the firms above referred to—all in support of the application. It should be noted, however, that the largest shipper, namely, Canadian Vegetable Oil Processing Limited, made no representation whatsoever, having advised the Board by letter dated May 27, 1952, that they wished to remain neutral.

The evidence submitted by witnesses from firms supporting the application and of the Hamilton Harbour Commission can be summarized in short order. They were of the opinion that if the application were approved, competitive rates could be established, switching charges abolished and, above all, delays in the movement of cars would be considerably reduced.

As regards delays, it was contended that, due to the interchange only being switched once in twenty-four hours it sometimes took from twenty-four to ninety-six hours from the time a car arrived in Hamilton until it was placed for unloading (see page 1789 of the Transcript) and, conversely, that after a car was ordered from The Toronto, Hamilton and Buffalo Railway for loading on the Hamilton Harbour Commission's property, it normally took two days to get it placed (see page 1778 of the Transcript). However, during cross-examination none of the witnesses was able to give a solitary specific case to support their contentions that serious delays occurred.

As to switching charges, evidence submitted by the Respondent showed that in the main, the switching charges were absorbed by the road having the line haul. Exhibit No. 9 shows that of the total traffic inbound and outbound for the year 1951, the switching charges actually collected amounted to less than \$40.00. Returning again to delays, annexed hereto is Exhibit No. 10, wherein it will be noted that a total of 417 cars were interswitched during the year 1952. Of that total, 231 were cars destined to or from the Canadian Vegetable Oil Processing Limited, a Company which desired to remain neutral. There were 201 cars inbound and 216 outbound, almost a balance. I think it must be reasonable to assume that when cars come in and are unloaded the empties are there to be loaded. Therefore, I am unable to give any weight to the statements made that it takes from twenty-four to ninety-six hours to get a car placed. Surely if there were serious delays, some complaint would have been received from Canadian Vegetable Oil Processing Limited. It is possible and reasonable to assume that with the interchange only being switched once in twenty-four hours, depending upon the time a car arrived in Hamilton or was ordered, it might take twenty-four hours to make delivery of or to place the empty for loading.

Commencing on page 1816 of the Transcript, when I was questioning Witness Mayo, Trainmaster for the Respondent, the following appears:

"Q. Now I am interested about this delay business. From all we hear there is a terrific delay over this Harbour Board property. Any delay on the other property?

A. No, sir. We have no complaints—the major plant is there, and I cannot understand where the excessive delay comes there.

Q. It is said to be quite as big as 24 and 72 hours?

A. I cannot account for it.

Q. In any event, if there is, it could be cured by proper management?

A. That is right.

Q. And by proper co-operation between the two railways?

A. It could.

Q. I would think it could?

A. Yes."

Here it should be stated that there are a number of industries in the City of Hamilton served jointly by the Canadian National Railways and The Toronto, Hamilton and Buffalo Railway, and an additional number served exclusively by one or the other of the two railways. Undoubtedly some of the cars destined to or from these industries which are exclusively served also go to the interchange. If serious delays occur to traffic moving to or from the Hamilton Harbour Commission property served exclusively by the Canadian National Railways, the interchange only being switched once in twenty-four hours, surely the other industries served exclusively by the Canadian National Railways would meet with similar delays. No complaints appear to have been made by those industries, which leaves me with the opinion that the so-called extreme delays are not very serious. If, however, the movement of traffic is not as prompt as it should be, there is a strong possibility that an improvement can be effected by proper co-operation as between the railways, or perhaps by making arrangements to switch the interchange track more frequently.

In argument, Counsel for the Applicant contended that as a number of witnesses had appeared and a number of letters had been sent to the Board, all in support of the application, public interest warranted the granting of the application. He also referred to the decision of the Board in *re Guelph and Goderich Railway Company*, C.R.C. 6, page 139.

Counsel for the Respondent contended that the application was launched by The Toronto, Hamilton and Buffalo Railway Company for the purpose of taking business from the Canadian National Railways and should be refused; that in order to succeed, the Applicant must show a great preponderance of convenience to the public and that it has not done so.

He also referred to the case of *Canadian Northern Ontario Railway Company v. Grand Trunk and Canadian Pacific Railway Companies*, C.R.C. 7, page 289, and to the case of *North Fraser Harbour Commissions et al v. C.N.R. & C.P.R.*, C.R.C. 39, where at page 19 the then Chief Commissioner stated in part:

"It is my view that the Board has gone entirely too far in the granting of interchanges, and that it is time it returned to the principles laid down in the earlier decisions".

And at page 30, where the following sentence appears:

"The effects of one railway to invade territory which the other has developed is responsible for a great deal of the unnecessary duplication of railways which exists in Canada today, and nothing, in my opinion, encourages the practice more than too much liberality in the granting of interchanges".

I would also refer to the case of *C.P.R. v. C.N.R.*, 54 C.R.C., page 218, which I consider to be more of a parallel with the matter before us than either of the cases stated by the respective Counsel.

In that particular case, the Canadian National Railways had a line serving the Department of National Defence at Uplands, Ontario. The Canadian Pacific Railway Company applied for authority to build a piece of track some 7,700 feet in length to connect with the line being operated by the Canadian National Railways. The land upon which the Canadian National Railways' line was built was owned by the Crown. The Department of National Defence supported the application, and at pages 221 and 222 the Assistant Chief Commissioner stated:

"After giving careful consideration to all that was stated at the hearing, and to what has been placed on file, I fail to comprehend the necessity for this additional branch line. In my opinion, it would be an unnecessary duplication of services. There is no reason to believe that the capacity and facilities of the existing private siding would in any way be inadequate to serve Uplands, and no evidence was given to the contrary. The evidence

shows that perhaps a car a day inwards would be approximately the amount of traffic, and even should the traffic prove to be considerably more, there is no reason to believe that the one line could not handle such traffic".

SUMMARY:

This application was made under Sections 181, 182, 183, 193, 252 and 255 of the Railway Act and must first be considered under Subsection 1 of Section 182, which reads as follows:

"182. The Board, if satisfied that the branch line is necessary in the public interest or for the purpose of giving increased facilities to business, and if satisfied with the location of such branch line, and the grades and curves as shown on such plan, profile and book of reference, may, in writing, authorize the construction of the branch line in accordance with such plan, profile and book of reference, or subject to such changes in location, grades and curves as the Board may direct."

The point to be determined is: "Is it necessary in the public interest or for the purpose of giving increased facilities to business to provide means whereby The Toronto, Hamilton and Buffalo Railway Company could obtain access to trackage located on the property of the Hamilton Harbour Commission.

In my opinion the answer is "No". The application cannot be supported on the grounds of economy as the evidence shows that the amount of inter-switching charge collected is negligible. No evidence was submitted to prove that the service rendered by the Canadian National Railways was inadequate, the only complaint being "alleged delays" which, if really serious and as indicated herein, can in all probability be remedied by proper cooperation as between the two railways themselves.

The application should be dismissed.

February 18, 1953.

H. B. CHASE.

I concur:

A. SYLVESTRE.

EXHIBIT No. 10

**TRAFFIC HANDLED VIA CONNECTIONS TO AND FROM FIRMS LOCATED
ON HAMILTON HARBOUR COMMISSIONERS' PROPERTY—1952**

	<i>Interswitched Cars</i>	
	<i>In</i>	<i>Out</i>
Canadian Vegetable Oil Processing Ltd.....	134	97
F. P. Weaver Coal Co. Ltd.	6	—
Canada Coal Ltd.	42	—
Canadian Oil Companies Ltd.	1	56
Trinidad Leaseholders (Canada) Ltd.	—	—
Mixed Concrete Supply Ltd.	1	—
B. Greening Wire Co. Ltd.	3	—
McNamara Construction Co. Ltd.	4	—
Harbour Terminal Warehouse (Hamilton Harbour Commission)	11	—
Port Crescent Sand Co.	—	63
	<hr/> 201	<hr/> 216

Office of Division Freight Agent,
Canadian National Railways,
Hamilton, Ont.
Jan. 22, 1953.

ORDER No. 80867

In the matter of the application of The Toronto, Hamilton and Buffalo Railway Company for Orders under Sections 181, 182, 183, 193, 252 and 255 of the Railway Act: (1) Authorizing the construction, maintenance and operation of a branch line of railway or spur extending from a point on the Belt Line of the Applicant immediately east of Wellington Street in the City of Hamilton to a junction with the tracks of the Canadian National Railway Company as shown on Railway plan No. 356 filed with the application.

- (2) Authorizing the Applicant to carry the proposed branch line across Wellington Street and Ferrie Street.*
- (3) Authorizing the Applicant to join the said branch line with the tracks of the Canadian National Railway Company at or near the point marked "N" to the respective junctions of the said tracks with the south side of Burlington Street at points "C", "P" and "E" and to have and exercise full right and power to run and operate its trains over and upon the said tracks freely and jointly with the Canadian National Railway Company.*
- (5) Authorizing the Applicant to operate over the tracks owned by The Hamilton Harbour Commissioners commencing on the south side of Burlington Street and running across Burlington Street to and into the lands of the said Hamilton Harbour Commissioners.*

File No. 42303

THURSDAY, the 19th day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held in the City of Hamilton on January 28, 1953, in the presence of Counsel for The Toronto, Hamilton and Buffalo Railway Company, the Canadian National Railways, the City of Hamilton, the Canadian Pacific Railway Company and the Canadian Shipping Companies—

It is ordered that the said application be, and it is hereby dismissed.

HUGH WARDROPE,
Assistant Chief Commissioner.

In the matter of the application of the Village of Forest Hill, Ontario, for an Order directing the Canadian National Railways to discontinue the use of the passing track which runs off the south side of their line in the said village.

File No. 26825·138

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Heard at:

Toronto, Ontario, on February 3, 1953.

Appearances:

MELVILLE GRANT, Q.C., for the Village of Forest Hill.

D. W. GILMOUR, for the Canadian National Railways.

R. F. MAY, Q.C., for S. McCord & Co. Ltd.

JUDGMENT

CHASE, Commissioner:

In this case the Village of Forest Hill, hereinafter referred to as the "Village", has applied for an Order directing the Canadian National Railways, hereinafter called the "Railways", to discontinue the use of a passing track which is located in the said Village on the property of the former Belt Line Railway now owned and operated by the Canadian National Railways.

The Belt Line commences at Fairbanks Junction and runs in an easterly direction through the northern part of the City of Toronto, including the Village, crosses several streets, more particularly Bathurst Street, is about four and a half miles long, and comes to a dead end at about Merton Street.

Some twenty-seven industries are located along the Belt Line, all of which require switching services, the principal industry requiring railway services being S. McCord Co. Ltd., with its location east of the passing track and immediately east of Bathurst Street. To switch this particular industry, movements must be made backwards and forwards over Bathurst Street, thereby causing some delay to traffic on the highway. The reasons advanced by witnesses and representatives of the Village in support of the application are that the Line passes through a residential area and that the residents are therefore subject to: (1) smoke and cinders being emitted from the stacks of the locomotives; (2) annoyance caused by the sounds created when cars are being switched; (3) the danger to children; (4) the delays in getting over Bathurst Street; (5) and, in particular, cars being left on the passing track.

As above stated, the Belt Line runs into a dead end. In the operation, a train leaving the terminal is headed by an engine. Some industries have sidings with switch points facing east and at such points cars can be set out by straight movements. Other industries have sidings with the switch points facing west and in order to place cars in those sidings they must in some way or other be placed on the front end of the engine. On the return trip the engine must be at the head end of the train, even though it is being run tender first. With that short explanation it can be readily seen that some means must be afforded to get the engine from one end of the train to the other end—to, so to speak, run around the train. The passing track is therefore absolutely essential in the operation of the railway. Consequently, the Board cannot grant the application and it must of necessity be dismissed.

The Board, however, does have a considerable amount of sympathy for the residents of the Village and is of the opinion that if an investigation were made some relief might be afforded, as, for instance, if the Railways could use a diesel

engine instead of a steam locomotive there would be no smoke or cinders to contend with. If the switching could be eliminated over Bathurst Street during the rush hours of the morning and evening it would be of great assistance to the users of the highway and a further improvement could be made if it were possible to avoid leaving cars on the passing track beyond the length of time necessary for the engine to be run around.

The Board notes that in the working timetable of the Toronto Terminals there are special instructions reading as follows:

Fleet Street, East of Bathurst Street. No trains or engines are permitted to perform switching operations over this public crossing at grade from 7.30 a.m. until 9.30 a.m., and from 4.00 p.m. until 6.00 p.m., except during the period of Daylight Saving Time, when such restricted hours will be changed 6.30 a.m. until 8.30 a.m., and 3.00 p.m. until 5.00 p.m. No restrictions on straight movements over this crossing, etc.

AND

Due to highway traffic on Parliament Street immediately south of Fleet Street, train movements over this public crossing at grade must be kept to the minimum during the rush hour periods from 7.30 a.m. to 9.30 a.m. and 4.30 p.m. to 6.30 p.m., except during the period of Daylight Saving Time when such restricted hours will be changed, 6.30 a.m. to 8.30 a.m., and 3.30 p.m. to 5.30 p.m., and all movements must clear the crossing with the least possible delay. All movements will stop clear of this crossing and movement over the crossing must be flagged by a member of the crew.

The Board therefore strongly recommends that representatives of the Village and of the Railways confer with one another at an early date, carefully examine the situation, and effect all possible improvements, advising the Board as to decisions reached.

H. B. CHASE.

February 20, 1953.

I concur:

A. SYLVESTRE.

ORDER No. 80885

In the matter of the application of the Village of Forest Hill, Ontario, for an Order directing the Canadian National Railways to discontinue the use of the passing track which runs off the south side of their line in the said village.

File No. 26825-138

MONDAY, the 23rd day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held at Toronto on February 3, 1953, in the presence of Counsel for the Village of Forest Hill, the Canadian National Railways and S. McCord & Company Limited—

It is ordered that the said application be, and it is hereby dismissed.

HUGH WARDROPE,

Asst. Chief Commissioner.

In the matter of the application of Canadian Pacific Railway Company and Canadian National Railways for an Order prohibiting publication and distribution of any book, document or paper not sanctioned by the Board or the Railway Association of Canada Committee on Operating Rules that purports to interpret or explain the Board's Uniform Code of Operating Rules, including a proposed book entitled "Guide to Train Rules" by J. F. Crosson, or for an Order prohibiting the use by railway employees engaged in the operation of trains of any such book, document or paper.

File No. 43757-10

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*
 ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
 H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

K. D. M. SPENCE, for the Canadian Pacific Railway Company.
 A. K. DYSART, for the Canadian National Railways.
 P. W. HANKINSON, for the Toronto, Hamilton and Buffalo Railway.
 F. W. CARRUTHERS for the Chesapeake and Ohio Railway.
 R. A. WILLOUGHBY, for the Ontario Northland Railway.
 T. W. CAIN, for the Algoma Central Railway.
 A. C. NELSON, for the New York Central Railway.
 A. LORNE CAMPBELL, for J. F. Crosson.
 J. L. D. IVES, W. H. PHILLIPS, J. G. McLEAN, A. BALCH, W. K. McKEE, U. W. CARPENTER, for the Dominion Joint Legislative Committee of the Transportation Brotherhoods.

JUDGMENT

WARDROPE, *Asst. Chief Commissioner:*

On April 7, 1951, the Board, by General Order No. 750 approved a Uniform Code of Operating Rules and prescribed them as the Operating Rules of all Railways subject to the jurisdiction of the Board; except such railways which the Board might by Order exempt from application of the Order.

Subsequently, one J. F. Crosson, a train dispatcher on the C.P.R. compiled in book form and proposed to publish what he termed a "Guide to Train Rules". This proposed book, we understand, purports to be based on the Uniform Code of Operating Rules, and is designed to quote the rules, discuss the same and to explain and give interpretations thereof. Here it may be said the Board has not seen the proposed work and the Railways after being approached by Mr. Crosson and after reviewing interpretations of a few of the rules refused to have anything more to do with the project. Mr. Crosson's attempts to obtain some sign of recognition or approval from either the Board or the Railways were unsuccessful. In fact the Railways expressed alarm and concern that such a work which might contain erroneous interpretations of operating rules should be published. They felt that a publication of this nature which sets out to explain and interpret the meaning of a train operating rule merely places the author's interpretation in print and could only lead to misunderstanding and confusion on the part of employees who might read it and consequently the safety of train operation might be endangered. They pointed out to the Board,

with which the Board fully agrees, the absolute necessity of uniformity of interpretation and understanding of the rules on the part of all railway employees. And they reminded the Board that it was for this purpose a Committee of experienced and qualified railroad representatives was established by the Railway Association of Canada.

Hence this application was submitted by the C.N.R. and the C.P.R. supported by other railways subject to the Board's jurisdiction. The Board is asked for an Order prohibiting publication and distribution of any book, document or paper not sanctioned by the Board or the Railway Association of Canada Committee on Operating Rules that purports to interpret or explain the Board's Uniform Code of Operating Rules, including a proposed book entitled "Guide to Train Rules" by J. F. Crosson, or for an Order prohibiting the use by railway employees engaged in the operation of trains of any such book, document or paper.

The Railways submit that the power of the Board to make such an Order as asked lies in the language of Section 287, sub-sections (g) and (l) and also Section 288.

Section 287, s.s's. (g) and (l) read as follows:

287. The Board may make orders and regulations

- (g) with respect to the rolling stock, apparatus, cattle-guards, appliances, signals, methods, devices, structures and works, including light, heat and power lines or wires, to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public and all persons travelling on His Majesty's service;
- (l) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines, by the company on or in connection with the railway.

While Section 287 undoubtedly gives the Board very wide powers, specifically and generally, to provide for the protection and safety of the public and employees, I have extreme doubts that broad as they may be they would enable the Board either to prohibit a publication such as is proposed or to prohibit the use by railway employees engaged in the operation of trains of any such book or publication. The latter prohibition, in any event, would merely be illusory and unenforceable even should the Board have such power.

But I do not think it is necessary for the disposition of this case to dwell further on the question of the Board's jurisdiction under Section 287. In my opinion the Railways have failed to be convincing in their assertions of the hazards of such a publication. It may have many errors in it—we do not know—but the machinery for the safe guidance of all operating employees is, we think, well established. And it is the obligation of the railways to ensure the competence of their employees in the knowledge and uniform use of the Operating Rules.

It might be helpful at this point to review the steps taken by the Board and the Railways in establishing the Uniform Code of Operating Rules and making provision for ensuring the proper knowledge of them by employees.

Section 288 reads as follows:

"The Board shall endeavour to provide for uniformity in the construction of rolling stock to be used upon the railway, and for uniformity of rules for the operation and running of trains."

In conformity with this Section and following a Directive issued by the Board to the Railway Association of Canada dated February 4, 1946, a Uniform Code of Operating Rules was compiled and a Draft of the proposed new rules was submitted to the Board on February 1950.

Under date of February 15, 1950, the Board conducted a Hearing at which all parties interested were afforded an opportunity to express their views with respect to the new rules and the Board's Judgment was delivered on July 25, 1950. Several rules still being in dispute, further negotiations were carried on and an agreement subsequently being reached, under date of April 7, 1951, the Board, by General Order No. 750 above referred to approved the Uniform Code of Operating Rules and prescribed same as the Operating Rules of all railway companies subject to the jurisdiction of the Board except railway companies which the Board might by Order exempt from the application of the Order. As it was necessary to afford a period of time in which to instruct and examine the employees on the new rules, it was provided that the Order should come into force on August 26, 1951.

After the Uniform Code of Operating Rules had been placed in effect and following a series of conferences, the Board under date of December 18, 1952, issued General Order No. 782 in which was set forth the methods to be followed by the Railways in the examination of employees of the railways whose duties required them to conform with the operating rules.

That Order prescribed the type of examination books to be used in the examination of various classes of employees and also required the re-examination of such employees periodically at intervals to be determined by the railways, with the stipulation that the intervals should under no circumstances exceed three years.

During the conference held prior to the issuance of General Order No. 759 the Railways stated that they had instituted what might be termed refresher courses. A number of rule instructors had been appointed, a number of rule cars had been set up and the rule instructors were required to travel from point to point, conduct classes and give instructions to the various classes of employees with respect to the operating rules. During the Hearing on February 9, 1953, evidence was submitted which indicated to the Board's satisfaction that the Railways were doing everything reasonably possible to see that the employees were properly instructed, examined, and that they understood the rules which they were required to carry out.

Fundamentally, the instructing and disciplining of the employees are in the Railways' hands and should they feel that a book such as Mr. Crosson proposes to publish contains errors tending to mislead employees in the true interpretation of the Operating Rules, they can have their Rule Instructors instruct all employees to be governed by the interpretation given to them by the Rule Instructors and not by any interpretations which may be contained in this book or any other publication which might come into their hands.

I would dismiss the application.

OTTAWA, March 11, 1953.

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 81009

In the matter of the application of Canadian Pacific Railway Company and Canadian National Railways for an Order prohibiting publication and distribution of any book, document or paper not sanctioned by the Board or the Railway Association of Canada Committee on Operating Rules that purports to interpret or explain the Board's uniform Code of Operating Rules, including a proposed book entitled "Guide to Train Rules" by J. F. Crosson, or for an Order prohibiting the use by railway employees engaged in the operation of trains of any such book, document or paper:

File No. 43757-10

THURSDAY, the 12th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in the Court Room, Union Station Building, Ottawa, Ontario, on the 9th day of February 1953, in the presence of Counsel for the Canadian Pacific Railway Company, the Canadian National Railways, the Toronto, Hamilton and Buffalo Railway, the Chesapeake and Ohio Railway, the Ontario Northland Railway, the Algoma Central Railway the New York Central Railway and J. F. Crosson, and representatives of the Dominion Joint Legislative Committee of the Transportation Brotherhoods—

It is ordered that the application be, and it is hereby, dismissed.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 80883

In the matter of the application of Colonial Steamships, Limited, hereinafter called the "Applicant", for a licence under section 10 of The Transport Act, 1938:

File No. 42076-16

SATURDAY, the 21st day of February, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E. *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 262 be issued to the applicant licensing, for the period of one year commencing January 15, 1953, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as Prescott, Ontario:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Bayton</i>	141675	4176
<i>Laketon</i>	137906	4423
<i>Mathewston</i>	141679	7403
<i>Royalton</i>	151108	7164

2. On Lakes Ontario, Erie, Huron, (including Georgian Bay) and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Brampton</i>	149435	1926
<i>Clayton</i>	161526	1925
<i>Queenston</i>	149430	1926
<i>R. H. Marshall</i>	149499	1926
<i>Donald F. Fawcett</i>	148073	1902
<i>Frank H. Brown</i>	148079	1902
<i>Frank Wilkinson</i>	161524	1940
<i>E. P. Murphy</i>	149493	1927
<i>Paul Manion</i>	149494	1927
<i>J. N. McWatters</i>	161519	1928
<i>Geo. M. Carl</i>	149475	1939
<i>J. G. Irwin</i>	149495	1927
<i>Lt. J. Misener</i>	161517	1928
<i>John A. France</i>	161518	1938
<i>Clary Foran</i>	149500	1975
<i>Ralph Misener</i>	161720	1940

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 80974

In the matter of the application of Charles Sanders, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076.45

MONDAY, the 9th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 266 be issued to the Applicant licensing for the period of one year commencing February 9, 1953, the following ships to transport goods between all ports and places in Canada accessible by navigation on Great Slave Lake and the Slave River, Fort Smith and North thereof:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>S.T. Barge 102</i>	171,641	141
<i>S.T. Barge 103</i>	173,702	141
<i>S.T. Barge 150</i>	157,161	160

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81011

In the matter of the application of the Abitibi Navigation Company, Limited, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act:

File No. 42076-18

THURSDAY, the 12th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 268 be issued to the Applicant licensing for the period of one year commencing January 15, 1953, the following ship to transport goods by water between all ports and places in Canada in the areas designated herein:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Wahcondah</i>	102577	1575

Between all ports or places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81025

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 11 to Agreed Charge Tariff C.T.C. (AC) No. 14:

File No. 40994·16

TUESDAY, the 17th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 11 to Agreed Charge Tariff C.T.C. (AC) No. 14 on file with the Board under file No. 40994·16, be, and it is hereby, approved; and that the date as from which the said Supplement No. 11 shall be deemed to have become operative is hereby fixed as March 12, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81038

In the matter of the application of McInnes Products Corporation Limited, Edmonton, Alberta, hereinafter called the "Applicant", for a licence under Section 10 of the Transport Act, 1938:

File No. 42076-32

WEDNESDAY, the 18th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 270 be issued to the Applicant licensing for the period of one year commencing February 9, 1953, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

- (a) Between Waterways and ports and places on Great Slave Lake and all intermediate points.
- (b) Between ports and places on Lake Athabaska.
- (c) Between ports and places on Lake Athabaska and ports and places described in (a) hereof.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Nor-Alta</i>	158312	101
<i>Nor-Basca</i>	156571	30
<i>Beaver Lake</i>	171632	54
<i>Cross Fox</i>	157170	17
<i>Liard River</i>	150795	36
<i>Dease Lake</i>	156579	95

<i>Barges</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>MPC 21</i>	175676	217
<i>MPC 32</i>	172331	195
<i>MPC 33</i>	175136	213
<i>MPC 36</i>	193252	350
<i>HB 18</i>	173710	53
<i>HB 21</i>	171649	195
<i>HB 23</i>	174968	192
<i>HB 24</i>	174969	64
<i>HB 25</i>	175551	64
<i>HB 26</i>	175552	149
<i>HB 204</i>	157172	275
<i>HB 205</i>	171648	271
<i>HB 207</i>	171634	169
<i>HB 253</i>	171637	190

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81035

In the matter of the application of Northern Transportation Company Limited, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-33

WEDNESDAY, the 18th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 267 be issued to the Applicant licensing, for the period of one year commencing February 9, 1953, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On rivers, streams, lakes and other waters within the watershed of the Mackenzie River, except Fort Nelson River, Peace River and Liard River (other than the Fort Simpson Airport).

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>M/V Radium Queen</i>	159001	108.37
<i>M/V Radium King</i>	159002	115.34
<i>M/V Radium Cruiser</i>	171801	27.00
<i>M/V Radium Express</i>	171802	40.48
<i>M/V Radium Lad</i>	170773	40.37
<i>M/V Great Bear</i>	170938	153.00
<i>M/V Radium Prince</i>	175123	42.07
<i>M/V George Askew</i>	175156	127.19
<i>M/V Slave</i>	176218	69.45
<i>M/V Peace</i>	192899	69.45
<i>M/V Clearwater</i>	176217	69.45
<i>M/V Radium Gilbert</i>	177784	296.79
<i>M/V Radium Charles</i>	179097	230.05
<i>M/V Radium Scout</i>	179098	23.18
<i>M/V Radium Yellowknife</i>	190334	235.45
<i>M/V Nianqua</i>	192908	21.23
<i>M/V Alcan</i>	195230	51.23
<i>Radium Barge No. 1</i>	170774	356.39
<i>Radium Barge No. 2</i>	173373	339.63
<i>Radium Barge No. 3</i>	170775	103.18
<i>Radium Barge No. 4</i>	170776	236.88
<i>Radium Barge No. 5</i>	170777	67.37
<i>Radium Barge No. 6</i>	170778	66.18
<i>Radium Barge No. 10</i>	171816	71.15
<i>Radium No. 50</i>	Applied for	37.27
<i>Radium No. 51</i>	192909	37.27
<i>Radium No. 52</i>	Applied for	37.27
<i>Radium No. 75</i>	179089	64.63
<i>Radium No. 80</i>	173706	192.44
<i>Radium No. 100</i>	175125	121.11
<i>Radium No. 101</i>	179088	107.49
<i>Radium No. 102</i>	190806	105.85
<i>Radium No. 250</i>	194659	199.29
<i>Radium No. 251</i>	194660	199.29
<i>Radium No. 252</i>	Applied for	199.29
<i>Radium No. 253</i>	Applied for	307.76
<i>Radium No. 254</i>	Applied for	307.76
<i>Radium No. 300</i>	175126	265.89

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Radium No. 301</i>	175127	265.89
<i>Radium No. 302</i>	175128	265.89
<i>Radium No. 303</i>	179099	168.78
<i>Radium No. 304</i>	179100	168.78
<i>Radium No. 400</i>	175153	227.32
<i>Radium No. 402</i>	175155	406.60
<i>Radium No. 403</i>	176215	227.32
<i>Radium No. 404</i>	176216	227.32
<i>Radium No. 405</i>	177785	220.83
<i>Radium No. 406</i>	177786	220.83
<i>Radium No. 407</i>	177787	220.83
<i>Radium No. 408</i>	177788	220.83
<i>Radium No. 409</i>	177789	220.83
<i>Radium No. 410</i>	177790	220.83
<i>Radium No. 411</i>	178031	220.83
<i>Radium No. 412</i>	178032	220.83
<i>Radium No. 413</i>	178033	220.83
<i>Radium No. 415</i>	178035	220.83
<i>Radium No. 416</i>	179422	220.83
<i>Radium No. 417</i>	179423	220.83
<i>Radium No. 418</i>	179424	220.83
<i>Radium No. 419</i>	179425	220.83
<i>Radium No. 420</i>	179426	220.83
<i>Radium No. 421</i>	179427	220.83
<i>Radium No. 422</i>	179428	220.83
<i>Radium No. 423</i>	179429	220.83
<i>Radium No. 424</i>	190807	220.83
<i>Radium No. 425</i>	190808	220.83
<i>Radium No. 426</i>	190809	220.83
<i>Radium No. 427</i>	190810	220.83
<i>Radium No. 428</i>	190811	220.83
<i>Radium No. 429</i>	190812	220.83
<i>Radium No. 430</i>	190813	220.83
<i>Radium No. 432</i>	190815	220.83
<i>Radium No. 433</i>	190816	220.83
<i>Radium No. 434</i>	190817	220.83
<i>Radium No. 435</i>	190818	220.83

2. On Bear River, N.W.T., between Fort Norman and Franklin, inclusive.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Radium Franklin</i>	194887	118.81
<i>Radium 76</i>	194888	77.14
<i>Radium 77</i>	194889	77.14
<i>Radium 78</i>	194890	77.14
<i>Radium 103</i>	194891	106.00

3. Between Waterways, Alta., and all ports and places on Lake Athabaska.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Radium No. 350</i>	Applied for	213.41
<i>Radium No. 351</i>	Applied for	213.41
<i>Radium No. 352</i>	Applied for	213.41

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80832 Feb. 16—Permitting the removal of slow order at C.N.R. crossing of Cumberland Street, Cornwall, Ont.
- 80833 Feb. 16—Approving location of storage tank, etc., of Edwards Sudbury Limited, near C.P.R. tracks at Sudbury, Ont.
- 80834 Feb. 16—Permitting the removal of slow order at C.P.R. crossing of Edwards and Dubray Streets, Coniston, Ont.
- 80835 Feb. 16—In the matter of apportionment of the remainder of the cost of construction and cost of maintenance of subway authorized to be constructed at mileage 19.2 Rimouski Subdivision, C.N.R., Town of Rimouski, P.Q.
- 80836 Feb. 16—Permitting the removal of slow order at C.N.R. crossing near station at La Reine, P.Q.
- 80837 Feb. 17—Authorizing the C.N.R. to close the agency at Kathryn, Alta.
- 80838 Feb. 17—Approving Memorandum of Agreement between the Bell Telephone Company and Canadian Splint and Lumber Corporation Limited.
- 80839 Feb. 17—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Tuque Telephone Company.
- 80840 Feb. 17—Approving proposed location of storage tank, etc., of North Star Oil Limited, near C.N.R. tracks at Leask, Sask.
- 80841 Feb. 17—Approving proposed location of storage tank, etc., of North Star Oil Limited, near C.N.R. tracks at Parkside, Sask.
- 80842 Feb. 17—Approving proposed location of storage tank of North Star Oil Limited near C.N.R. tracks at Big Valley, Alta.
- 80843 Feb. 17—Approving proposed location of storage tank of Imperial Oil Limited near C.N.R. tracks at St. Brioux, Sask.
- 80844 Feb. 17—Approving proposed location of warehouse of North Star Oil Limited near C.N.R. tracks at Heisler, Alta.
- 80845 Feb. 17—Permitting the removal of slow order at C.P.R. crossing near station in the Village of Stoughton, Sask.
- 80846 Feb. 17—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de Weedon.
- 80847 Feb. 17—Approving Appendix to Traffic Agreement between The Bell Telephone Company and Téléphone d'Harricana et Gatineau Limitée.
- 80848 Feb. 17—Approving under the Maritime Freight Rates Act, tolls published in Tariff filed by the Sydney and Louisburg Railway Company under section 9.
- 80849 Feb. 17—Approving under the Maritime Freight Rates Act, tolls published in Tariff filed by the Sydney and Louisburg Railway Company under section 9.
- 80850 Feb. 17—Approving under the Maritime Freight Rates Act, tolls published in Tariff filed by the Sydney and Louisburg Railway Company, under section 9.
- 80851 Feb. 17—Approving under the Maritime Freight Rates Act, tolls published in supplement to Tariff filed by the Cumberland Railway and Coal Company under section 9.
- 80852 Feb. 17—Approving under the Maritime Freight Rates Act, tolls published in Tariff filed by the Maritime Coal, Railway and Power Company, Limited under section 9.
- 80853 Feb. 17—Restricting the speed of C.P.R. trains at third public crossing north of the station in the City of Farnham, P.Q.
- 80854 Feb. 17—Authorizing the C.N.R. to close the agency at Lawrence Station, Ont.
- 80855 Feb. 17—Requiring the C.N.R. to install protection at the crossing of Kennedy Road, Township of Scarborough, Ont.
- 80856 Feb. 17—Permitting the removal of slow order at C.P.R. crossing, first public crossing north of St. Lin Junction, P.Q.
- 80857 Feb. 17—Rescinding Order No. 77091, dated August 2, 1951, which authorized the C.P.R. to operate through the interlocking at the temporary gauntlet track bridge known as Ste. Anne's Bridge, P.Q.
- 80858 Feb. 17—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Corporation de Téléphone de Québec.
- 80859 Feb. 18—Restricting the speed of C.N.R. trains at second public crossing north of the station at St. Johns, P.Q.
- 80860 Feb. 18—Approving Supplements to Traffic Agreement and Service Station Contract between The Bell Telephone Company and Guest Telephone System.
- 80861 Feb. 18—Approving Traffic Agreement between The Bell Telephone Company and Gervais Telephone System.
- 80862 Feb. 18—Authorizing the Canadian Northern Railway Company to construct a branch line in the City of Edmonton and the Municipal District of Strathcona No. 83, Province of Alta., etc.
- 80863 Feb. 19—Permitting the removal of slow order at C.P.R. crossing near switch at Ponoka, Alta.

- 80864 Feb. 19—Approving signal protection at Loop Junction at crossing of C.P.R. and C.N.R., Saskatoon, Sask.
- 80865 Feb. 19—Approving plan showing changes in operating circuits as installed at crossing of C.N.R. and L'Espérance Road, Tecumseh, Ont.
- 80866 Feb. 19—Extending the time within which protection is to be installed at C.N.R. crossing of Victoria Avenue and Park Street, Regina, Sask.
- 80867 Feb. 19—Dismissing application of T. H. and B. Railway Company for construction of a branch line from a point on the Belt Line to a junction with the C.N.R. tracks, Hamilton, Ont.
- 80868 Feb. 19—Amending Order No. 80677, dated January 21, 1953, which approved plan showing location of crude oil loading facilities of Western Leasehold Limited at the trackage of the Midland Coal Mining Company Limited near Drumheller, Alta.
- 80869 Feb. 19—Permitting the removal of speed restriction at C.N.R. crossing of Sturgeon Street, Omemeë, Ont.
- 80870 Feb. 20—Approving proposed location of storage tanks, etc., of Cities Service Oil Company near tracks of the C.P.R. at Orangeville, Ont.
- 80871 Feb. 20—Permitting the removal of slow order at the Grand River Railway Company crossing of Sixth Avenue, Kitchener, Ont.
- 80872 Feb. 20—Permitting the removal of slow order at C.P.R. crossing at mileage 69.4 Nelson Subdivision, B.C.
- 80873 Feb. 20—Permitting the removal of speed restriction at C.N.R. crossing at mileage 13.16 Erwood Subdivision, Man.
- 80874 Feb. 20—Permitting the removal of speed restriction at C.N.R. crossing at Highway No. 6, Melfort, Sask.
- 80875 Feb. 20—Permitting the removal of slow order at C.N.R. crossing at Colville Road at East Selkirk, Man.
- 80876 Feb. 20—Permitting the removal of the speed restriction at C.N.R. crossing near station at Blackwater Junction, Ont.
- 80877 Feb. 20—Permitting the removal of speed restriction at C.N.R. crossing of Gallaway Road near Scarborough, Ont.
- 80878 Feb. 21—Amending Order No. 76729, dated June 6, 1951, which authorized the C.P.R. to install protection at crossing of 20th Street West, Saskatoon, Sask.
- 80879 Feb. 21—Approving changes to C.P.R. automatic block signal system from mileage 0.0 to mileage 22.0 Maple Creek Subdivision, Sask.
- 80880 Feb. 21—Permitting the removal of speed restriction at C.N.R. crossing near station at Raymore, Sask.
- 80881 Feb. 21—Approving automatic block signal of the C.P.R. from mileage 0.0 to mileage 2.5 Empress Subdivision, Sask.
- 80882 Feb. 21—Approving clearances of tank car and unloading platform located on C.P.R. Sidings serving Monsanto (Canada) Limited, Montreal Terminals Division, P.Q.
- 80883 Feb. 21—Authorizing the issuance of licence No. C.T.C. (W.T.) 262 to Colonial Steamships Limited.
- 80884 Feb. 21—Restricting the speed of trains at C.P.R. crossing of Marie de l'Incarnation Street, Quebec City, P.Q.
- 80885 Feb. 23—Dismissing application of the Village of Forest Hill, Ontario, for an Order directing the C.N.R. to discontinue the use of the passing track which runs off the south side of their line.
- 80886 Feb. 23—Approving under the Maritime Freight Rates Act tolls published in Tariff as amended by supplement filed by the C.P.R. under section 9.
- 80887 Feb. 23—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canada and Gulf Terminal Railway Company under section 9.
- 80888 Feb. 23—Authorizing the C.P.R. to make changes to the interlocking at the crossing of its railway and the C.N.R. at Medonte, Ont.
- 80889 Feb. 23—Restricting the speed of trains at the Grand River Railway Company crossing of Ottawa Street, Kitchener, Ont.
- 80890 Feb. 24—Permitting the removal of speed restriction at T. H. and B. Railway Company crossing of Quigley side road near Stoney Creek, Ont.
- 80891 Feb. 24—Authorizing Imperial Oil Limited, to construct a petroleum products pipe line across and under the C.N.R. at Don River viaduct, Toronto, Ont.
- 80892 Feb. 24—Authorizing the Bank of Toronto, Ottawa, Ontario to release to the Canadian Northern Western Railway Company the sum of \$780.87 in connection with a branch line of railway for Forestburg Collieries Limited.
- 80893 Feb. 24—Amending Order No. 77601, dated October 22, 1951, re apportionment of cost of installation and maintenance of protection installed at crossing of Pottery Road by the C.P.R. Township of East York, Ont.
- 80894 Feb. 24—Approving Appendix to Traffic Agreement between The Bell Telephone Company and the Telephone Miltot.

- 80895 Feb. 24—Authorizing the C.N.R. to make changes in the signal protection at Turcot Yard, Montreal, P.Q.
- 80896 Feb. 24—Directing the C.N.R. to install protection at crossing of Middle Road, Township of Trafalgar, Ont.
- 80897 Feb. 24—Authorizing the issuance of licence No. C.T.C. (W.T.) 265 to Northwest Steamships Limited.
- 80898 Feb. 24—Authorizing the City of Winnipeg, Man., to erect a guard rail around the standards of the flashing light signals authorized by Order No. 74190, dated March 25, 1950.
- 80899 Feb. 24—Authorizing C.P.R. to install block signal at Hawk Lake, Ont.
- 80900 Feb. 24—Permitting the removal of speed restriction over C.P.R. crossing of 82nd Avenue S.E., Calgary, Alta.
- 80901 Feb. 24—Permitting the removal of speed restriction at C.P.R. crossing at Willingdon Siding, Alta.
- 80902 Feb. 24—Authorizing the issuance of licence No. C.T.C. (W.T.) 263 to Canada Steamship Lines Limited and the Northern Navigation Company Limited.
- 80903 Feb. 24—Authorizing the issuance of licence No. C.T.C. (W.T.) 264 to Canada Steamship Lines Limited by The Northern Navigation Company Limited.
- 80904 Feb. 24—Authorizing the Ontario Department of Highways to construct an overhead bridge over the C.P.R. tracks, Township of West Oxford, Ont.
- 80905 Feb. 24—Authorizing the Ontario Department of Highways to construct an overhead bridge, Township of North Dorchester, Ont.
- 80906 Feb. 24—Approving Supplement to Service Station Contract between The Bell Telephone Company and the Scratch and Palmer Telephone System.
- 80907 Feb. 24—Setting down the application of the Interprovincial Pipe Line Company for authority to construct a pipe line from the International Boundary to the City of Sarnia, Ont., to be heard at Ottawa on March 16, 1953.
- 80908 Feb. 24—Permitting the removal of speed restriction at C.P.R. crossing at Cataraqui, Ont.
- 80909 Feb. 25—Approving certain tariffs filed by The Bell Telephone Company of Canada.
- 80910 Feb. 25—Approving proposed location of storage tanks of Canadian Oil Companies Limited near the tracks of the C.N.R. at North Battleford, Sask.
- 80911 Feb. 25—Authorizing the T. H. and B. Railway Company to close and remove its station at Vinemount, Ont.
- 80912 Feb. 25—Rescinding Orders Nos. 76684, dated May 29, 1951, 77323, dated September 10, 1951, and 78320, dated February 19, 1952.
- 80913 Feb. 25—Approving plan submitted by the C.N.R. showing changes in track circuit at crossing at Bonaventure Road, Charlesbourg West, P.Q.
- 80914 Feb. 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Morse, Sask.
- 80915 Feb. 26—Approving restricted clearances at C.N.R. siding serving Simpson-Sears Limited at Armdale, N.S.
- 80916 Feb. 26—Approving revised book of rules and regulations governing the operation of the line of the Great Northern Railway Company in Canada.
- 80917 Feb. 26—Permitting the removal of speed restriction at Nipissing Central Railway crossing near station at Kirkland Lake, Ont.
- 80918 Feb. 27—Permitting the removal of slow order at C.N.R. crossing of Highway No. 3, mileage 3-95 Yarmouth Subdivision, N.S.
- 80919 Feb. 27—Approving proposed location of storage tanks, etc., of Department of Public Works of B.C. near C.N.R. tracks at Tranquille, B.C.
- 80920 Feb. 27—Authorizing the removal of speed restriction at C.P.R. crossing near station at Reaburn, Man.
- 80921 Feb. 27—Approving proposed location of storage tanks of Imperial Oil Limited near C.N.R. tracks at Entwistle, Alta.
- 80922 Feb. 27—Authorizing the Village of Maniwaki, P.Q., to widen Commercial Street where it crosses the C.P.R. in the said Village.
- 80923 Feb. 27—Authorizing the C.N.R. to install protection at crossing of Ashland Avenue, London, Ont.
- 80924 Feb. 27—Authorizing the Ontario Department of Highways to construct an overhead crossing over the C.N.R. in Township of East Oxford, Ont.
- 80925 Feb. 27—Requiring the C.N.R. to install protection at crossing of Victoria Avenue north of Ferrie Street, Hamilton, Ont.
- 80926 Feb. 27—Approving location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Hyas, Sask.
- 80927 Mar. 2—Authorizing the C.N.R. to close the agencies at Arnold's Cove and Northern Bight, Province of Newfoundland.
- 80928 Mar. 2—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the C.N.R. under section 3.
- 80929 Mar. 2—Relieving the C.P.R. from erecting cattle guards at certain railway crossings on its Swift Current Subdivision, Province of Saskatchewan.

- 80930 Mar. 2—Approving proposed location of pipe lines, etc., of Imperial Oil Limited near tracks of C.N.R. at Parry Sound, Ont.
- 80931 Mar. 2—Authorizing the Quebec Department of Roads to re-align Highway No. 6 across the C.N.R. at mileage 43.45 Cascapedia Subdivision, Province of Quebec.
- 80932 Mar. 2—Authorizing The Bell Telephone Company to construct its lines of telephone upon and along certain highways in the Township of Chatham, Ont.
- 80933 Mar. 2—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Kerrobert Subdivision, Province of Saskatchewan.
- 80934 Mar. 2—Authorizing the C.P.R. to operate their trains through the interlocking plant at mileage 13 Cudworth Subdivision, of the C.N.R. near Neely, Sask.
- 80935 Mar. 2—Approving under the Maritime Freight Rates Act tolls published in certain Tariffs filed by the C.N.R. under section 3.
- 80936 Mar. 3—Authorizing the Ontario Department of Highways to construct the Toronto By-Pass Highway across the C.P.R. by means of an overhead bridge in the Township of Scarboro, Ont.
- 80937 Mar. 3—Permitting the removal of speed restriction at C.N.R. crossing of Cumberland Street, Cornwall, Ont.
- 80938 Mar. 3—Permitting the removal of speed restriction at C.P.R. crossing of Givens Street, Woodstock, Ont.
- 80939 Mar. 3—Permitting the removal of speed restriction at C.P.R. crossing just west of the station in the Town of Bothwell, Ont.
- 80940 Mar. 3—Authorizing the C.N.R. to operate their trains through the interlocking at the crossing of their railways at Medonte, Ont.
- 80941 Mar. 3—Approving plan filed by the C.N.R. showing the protection installed at the crossing of their railway and Montrose Road, Stamford, Ont.
- 80942 Mar. 4—Requiring Canadian National Railways to install protection at crossing of Arthur Street, Town of Harriston, Ontario.
- 80943 Mar. 4—Approving location of storage tank, etc., of National Petroleum Corporation Limited near C.P.R. tracks at Whisky Gap, Alberta.
- 80944 Mar. 4—Approving location of storage tank, etc., of Imperial Oil Limited near C.P.R. tracks at Hilda, Alberta.
- 80945 Mar. 4—Requiring that all C.N.R. train movements over crossing of Provincial Highway No. 6 at Hagersville, Ontario be protected by a member of the train crew.
- 80946 Mar. 4—Permitting the removal of slow order at C.N.R. crossing near River Bend, Alberta.
- 80947 Mar. 4—Authorizing the Canadian Northern Railway to construct a branch line in the City of Calgary, Alberta.
- 80948 Mar. 4—Permitting the removal of slow order at C.P.R. crossing of Front Street near Station at Brockville, Ontario.
- 80949 Mar. 4—Permitting the removal of slow order at C.N.R. crossing of Florence Street, London, Ontario.
- 80950 Mar. 4—Restricting the speed of trains at C.N.R. crossing of 111th Avenue, Edmonton, Alberta.
- 80951 Mar. 4—Approving proposed location of storage tanks, etc., of Central Gas Utilities Limited, near C.N.R. tracks at Melville, Saskatchewan.
- 80952 Mar. 5—Approving for a temporary period plan submitted by the Northern Alberta Railway Company on behalf of Amerada Petroleum Company, showing facilities for the loading of crude oil at Kenzie, Alberta.
- 80953 Mar. 5—Permitting the removal of slow order at C.N.R. crossing near station in the Village of St. Gedeon, Alberta.
- 80954 Mar. 5—Approving proposed location of storage tank, etc., of Petroleum Gas Limited, near C.P.R. track at Langford, B.C.
- 80955 Mar. 5—Permitting the removal of slow order at C.N.R. crossing in Town of Stony Plain, Alberta.
- 80956 Mar. 5—Extending time within which protection is to be installed at crossing of Napierville Junction Railway Company in the Municipality of the Village of Napierville, Quebec.
- 80957 Mar. 5—Authorizing the Town of St. Laurent, Quebec to construct Hodge Street across the C.N.R. spur, near Eastern Junction in the Town of St. Laurent, Quebec.
- 80958 Mar. 5—Relieving the C.N.R. from erecting right-of-way fencing on certain portions of their Tonkin Subdivision, Saskatchewan.
- 80959 Mar. 5—Authorizing the Trans Mountain Oil Pipe Line Company to construct its Company pipe line within the North Alberta Land Registration District, Province of Alberta.
- 80960 Mar. 5—Approving plans showing location of Trans Mountain Oil Pipe Line Company pipe line within the Kamloops Division, Yale District, Province of British Columbia.

- 80961 Mar. 5—Approving plan showing location of Trans Mountain Oil Pipe Line Company pipe line within the Kamloops Division, Yale District, Province of British Columbia.
- 80962 Mar. 5—Extending the time within which protection is to be installed at Napierville Junction Railway Company at crossing of Highway 9A, in the Municipality of St. Jacques le Mineur, Quebec.
- 80963 Mar. 6—Authorizing the C.N.R. to reconstruct the bridge over the Sturgeon River at mileage 44.4, Kinghorn Subdivision, Ontario.
- 80964 Mar. 6—Authorizing the C.N.R. to close the existing north and south road allowance between Section 12, Township 2, Range 6, East Principal Meridian and Section 7, Township 2, Range 7, East Principal Meridian, Province of Manitoba.
- 80965 Mar. 6—Authorizing the Railway Association of Canada on behalf of its member companies to make a general increase of 7 per cent (10¢ to 20¢ per ton on coal and coke) in their tolls or rates for the carriage of freight traffic on their lines in Canada.
- 80966 Mar. 6—Authorizing the C.N.R. to discontinue the operation of mixed trains Nos. 381 and 382 between Cadomin and Mountain Park, Province of Alberta.
- 80967 Mar. 7—Authorizing the Hydro Electric Power Commission to construct five tunnel crossings under the tracks of the Niagara, St. Catharines and Toronto Railway, the Canadian National Railways and the New York Central Railroad in the Township of Stamford, County of Welland, Ontario.
- 80968 Mar. 9—Authorizing the C.N.R. to use the subway at Warden Avenue, Township of Scarborough, Ontario.
- 80969 Mar. 9—Authorizing the C.N.R. to operate over the Burnt River Bridge, Province of Ontario.
- 80970 Mar. 9—Approving proposed location of storage tank, etc., of Fuel Oil Supply near C.P.R. track at Hull, Quebec.
- 80971 Mar. 9—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.N.R. tracks at Raymore, Saskatchewan.
- 80972 Mar. 9—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited near the tracks of the Quebec Central Railway Company at Thetford Mines, Quebec.
- 80973 Mar. 9—Approving proposed location of storage tank, etc., of Imperial Oil Limited near Quebec Central Railway Company tracks at Thetford Mines, Quebec.
- 80974 Mar. 9—Approving the issuance of licence No. C.T.C. (W.T.) 266, to Charles Sanders.
- 80975 Mar. 9—Authorizing the New York Central Railroad Company to remove its shelter at Cayuga, Ontario.
- 80976 Mar. 9—Permitting the removal of slow order at C.P.R. crossing near Station at Val David, Quebec.
- 80977 Mar. 9—Authorizing the C.N.R. to construct a railway bridge over the Skeena River at mileage 0.2, Kitimat Branch Line, B.C.
- 80978 Mar. 9—Permitting the removal of slow order at C.N.R. crossing near the Village of Clifford, Ontario.
- 80979 Mar. 9—Authorizing the C.N.R. to operate under the bridge at mileage 4.27 Midland Subdivision, Ontario.
- 80980 Mar. 10—Authorizing the Ontario Department of Highways to construct Highway No. 27 across the C.P.R., by means of an overhead bridge at mileage 10.87, Galt Subdivision, Ontario.
- 80981 Mar. 10—Amending Order No. 80205, dated November 17, 1952, in regard to plan submitted to the C.N.R. by the Central Pipe Line Company Limited showing location of facilities for the handling and storage of liquefied petroleum gases at Aylmer, Ontario.
- 80982 Mar. 10—Restricting the speed of C.N.R. trains at crossing of Montcalm Street, Chicoutimi, Quebec.
- 80983 Mar. 11—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Broadview Subdivision, Sask.
- 80984 Mar. 11—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Mission Subdivision, B.C.
- 80985 Mar. 11—Approving clearances of the overhead highway bridge over the C.P.R. at mileage 81.8 Lacombe Subdivision, Alta.
- 80986 Mar. 11—Permitting the removal of slow order at C.P.R. crossing, First Street, Brandon, Manitoba.
- 80987 Mar. 11—Authorizing the C.N.R. to remove or cover the green lenses of the navigation lights on their bridge at Burlington, Ontario.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, April 15, 1953

No. 2

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

Application of West Lorne Lumber Company Ltd. for establishment of joint rates on Lumber to United States destinations via St. Thomas, Ontario, and the Chesapeake & Ohio Railway.

File 8641.89

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

W. M. BLAIN, for the West Lorne Lumber Company, Ltd.
K. D. M. SPENCE, for the Canadian Pacific Railway Co.
L. CHAFFEE, for the Chesapeake & Ohio Railway.
A. K. DYSART, for the Canadian National Railways.

Heard at London, Ontario, January 26, 27, 1953.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner.

By amended application, dated June 5, 1952, the West Lorne Lumber Company, Limited, hereinafter referred to as the Applicant, seeks the establishment of joint rates and joint routes on lumber from shipping points on the Canadian Pacific Railway in the provinces of Quebec and Ontario, to destinations in the United States within the territory to which rates are now effective via other routes in Canadian Freight Association tariff No. 21, Agent R. K. Watson's C.T.C. No. 362. Subsequently, at the hearing, the applicant stated he shipped to all 48 States and purchased lumber all over Canada. Specifically, however, the complaint was confined to the territory and tariff first mentioned herein.

The Applicant's place of business is at West Lorne, Ontario, a point served by the Chesapeake and Ohio Railway and the New York Central Railroad, and is situated on both lines between St. Thomas and Windsor, Ontario. No track connection exists between the two railways at this point.

A general description of the Applicant's business is that it purchases rough lumber at points such as Maniwaki and Kazabazua, in the Province of Quebec, and Renfrew and Walkerton, Ontario, which is transported to West Lorne, Ontario and there sorted, or air-dried, or piled, and then shipped to the points in the United States. Some lumber is kiln dried at West Lorne, or processed into flooring, but such processing is by a subsidiary company located there on the tracks of the New York Central Railroad.

The Applicant has a private siding from the tracks of the Chesapeake & Ohio Railway at West Lorne, from which inward lumber may be readily and economically unloaded adjacent to the applicant's plant, whereas on traffic reaching West Lorne via the New York Central Railroad, delivery is taken from team tracks involving considerable cartage expense on such of the traffic as must be placed in the plant adjacent to the private siding. Some storage space has been acquired in the vicinity of the New York Central delivery, but it is stated that such space is limited.

Both the Chesapeake & Ohio and the New York Central have in effect tariff provisions whereby lumber may be stopped in transit at West Lorne, Ontario, and be subsequently reshipped under the through rate from point of origin to final destination, but the said tariff of the Chesapeake & Ohio cannot be fully availed of due to lack of through rates via that line, from the points of origin to United States destinations referred to herein, through West Lorne; whereas through rates from Canadian Pacific Railway origins are available to certain destinations in the United States via St. Thomas and New York Central.

The substance of the Applicant's case is, therefore, that routings be provided via St. Thomas and the Chesapeake & Ohio to allow the transit privilege accorded by the latter line to become operative to the same extent as occurs with that of the New York Central.

The Applicant alleges that failure to provide such routings via the Chesapeake & Ohio is unreasonable and that, by maintaining joint rates and routes via St. Thomas and New York Central, the Canadian Pacific Railway unjustly discriminates against its traffic.

Evidence was adduced by the Applicant to show that a substantial volume of traffic is involved; that where inward cars reach West Lorne via the Chesapeake & Ohio the privilege of transit is lost inasmuch as combination rates are applied which result in a total through rate in excess of that which would apply via the New York Central; that negotiations had been in progress for some time past with the Chesapeake & Ohio but final settlement was obstructed by the Canadian Pacific; that utilizing New York Central routing, while preserving the transit privilege, involved an additional cost of from \$120 to \$160 per car for cartage and extra handling between the Applicant's plant and the said railway; and that the lines of the Chesapeake & Ohio and New York Central run practically parallel between St. Thomas and Windsor.

The Applicant admits that if the desired routing was established there would be occasion when traffic received at his private siding would be handled by truck to and from the subsidiary company on the New York Central, but asserted that such occasions would be the exception as shipments would be arranged to avoid such handling.

At the outset of the hearing Counsel for the Canadian Pacific Railway submitted that the Board had no jurisdiction to grant the application, chiefly on the grounds that to establish a joint through rate, as desired by the Applicant, would involve the consent of some sixty-nine United States railroads who were not subject to the Board's jurisdiction; that Section 338 of the Railway Act, which is the section applicable to this case, does not empower the Board to establish a joint international route but merely requires that a joint tariff be

established for a continuous route; that such continuous route is in effect via Detroit but the applicant seeks a second through route via St. Thomas; and that the Board cannot make a compulsory or conditional Order.

Counsel further contended that the principle established in the "Davy" case, 11 C.R.C. 109 is equally applicable here, in that the Supreme Court held in the said case the Board was unable to order a Canadian railway to perform an impossibility by requiring it to establish a joint rate with a foreign railway without the latter's consent. The "Stoy" case, 11 C.R.C. 118, was also cited in support of this contention.

As to the allegation of unjust discrimination, Counsel asserted if the Board found that it existed it could direct the Canadian Pacific to remove it, but the railway would have two alternatives, (1) to establish routes via the Chesapeake & Ohio and its sixty-nine other connections, or (2) cancel its participation in the present New York Central route. He further contended that as it might be impossible to secure agreement of the several railways to the first alternative an Order of this kind would be tantamount to a direction to cancel the New York Central route, which would deprive the Applicant of the privilege he now enjoys. It was contended further that if discrimination exists it is not unjust discrimination, and neither the Board nor the railway can remove it by alternative ways.

Supporting his argument as to lack of jurisdiction, Counsel stated that there is little distinction between a United States company participating in a joint international rate and a Provincial railway participating with a Dominion railway in a through rate within Canada; that the Supreme Court in the "Normetal" case, 52 C.R.T.C. 92 had ruled the Board was without jurisdiction over part of the through route; and that the Board had subsequently held that even the consent of the parties would not confer the required jurisdiction to make the Order.

Counsel for the Chesapeake & Ohio Railway objected to the introduction of certain exhibits on the grounds that they did not represent the policy of the Company, but upon question from the Bench stated that his Company would be willing to join in through rates and routes with the Canadian Pacific under reasonable arrangements.

Nothing was introduced in evidence showing the attitude of other United States railroads towards the application.

Witness Gillis, Freight Traffic Manager of the Canadian Pacific Railway, gave evidence to the effect that routing via St. Thomas and New York Central to United States points beyond Detroit was instituted in the year 1884, before the rails of the Canadian Pacific reached Windsor in 1889; that the St. Thomas routings were not then cancelled due to reciprocal arrangements elsewhere; that the Chesapeake & Ohio line was opened for traffic in 1888 but no routing to United States points was established via St. Thomas and that line, nor does the Canadian Pacific interchange traffic at St. Thomas with the Wabash Railway a United States line running through the same territory in Ontario and serving similar points in the United States; and that to establish a new routing involves negotiation with all of the railways concerned and consequent agreement as to divisions of revenue.

Mr. Gillis also stated that it was not the practice to establish routings for the purpose of accommodating processing plants with transit privileges; that to do so would put points on local lines, where out-of-line hauls are charged, at a disadvantage; and that to adopt such a practice would lead to a chaos in transit arrangements. He also stated that the main interchange with the New York Central was at the Detroit gateway, and routing via St. Thomas only occurred when traffic was specifically so routed by the shipper; and that the St. Thomas routing would not be established on any new traffic.

Counsel for the Canadian National Railways appeared as intervener and submitted that his company was opposed to any departure from the recognized right of the originating carrier to carry the traffic to the point of connection with another carrier at the terminus of the first carrier's line. In the instant case Counsel asserted that no carrier should be ordered to short haul itself to assist an industry to reduce its costs of operation; and that the root of the applicant's difficulty is that its plant is on the Chesapeake & Ohio whereas if it was on the New York Central there would be no grounds for a complaint.

DISCUSSION AND CONCLUSIONS

The applicant has alleged both unreasonableness and unjust discrimination arising out of a single cause, namely, that the Canadian Pacific Railway does not provide a joint rate and route via St. Thomas and the Chesapeake & Ohio Railway to United States destinations, whereas it does provide such routings via the same junction in connection with the New York Central Railroad.

The basis of the allegations is the single fact that the lack of such routings via the Chesapeake & Ohio renders inoperative stop-off privileges provided by the latter railway which could be utilized to advantage if such routings were established.

There is nothing before us showing that there is public need for such additional joint routes for any other purpose, nor any allegation by the Chesapeake & Ohio that it is unjustly discriminated against by the absence of such joint through routes.

On the other hand, as far as the Applicant is concerned, he is able to, and does, use the present routings via St. Thomas and the New York Central and thereby avails himself of stop-off privileges of the latter line to his advantage.

While the Applicant has broadly asserted that his competitive position with other persons engaged in the same type of business is prejudiced by the condition complained of, no evidence was submitted to prove that if such condition exists it was created by any action on the part of the respondent railways, or that in fact such a detrimental condition does exist.

Witness Liepman for the Applicant stated that the present owners of the West Lorne Lumber Company acquired the plant three or four years ago; that the plant had been operating since the 1870's chiefly as a sawmill processing lumber grown in the vicinity; that the new owners had expanded operations by bringing in cars for sorting and furtherance "until at this time it became necessary to look into this matter and try to accommodate it to the benefit of the Company" (Transcript, page 1653).

As the chief disability of the Applicant is that the plant thus recently acquired, though established many years previously, is on the tracks of the Chesapeake & Ohio Railway, it is not geographically located so as to make it entirely suitable for the type of operations now instituted, whereas it would seem that similar operations could be, and in fact are, conducted on the New York Central tracks with all of the advantages of such geographical location.

It cannot be overlooked that the disabilities of location must have been evident to the purchasers of the plant and that if such location included disabilities, the responsibility therefor does not rest upon the railways.

To take advantage of stop-off privileges accorded by the New York Central Railroad the Applicant must incur handling and trucking expenses of from \$120 to \$160 per car, whereas, according to the Applicant, a simple expedient of establishing through rates and routes via St. Thomas and the Chesapeake & Ohio Railway, this expense would be virtually eliminated.

That the application is strictly confined to the plight of the Applicant is made abundantly clear by what was stated by his Counsel at page 1713 of the Transcript of Evidence:

"So far as the necessity for vast changes in the set-up of the tariffs is concerned, I submit that a very simple amendment could be made—I believe it is through the Canadian Freight Association—and by publication of it, the whole set-up of tariffs would come into effect. The amendment would be simply this:

'When routes are shown from Canadian Pacific origin to the United States providing for participation by Chesapeake and Ohio Railway at Detroit, it is hereby amended that such route will also apply via St. Thomas and Chesapeake and Ohio (Pere Marquette Division) on lumber only transited at West Lorne, Ontario.'

I feel that that is all that is necessary."

It is thus clear that the Applicant seeks only to have established the desired routing and joint rate via St. Thomas and the Chesapeake & Ohio Railway for the purpose of availing himself of a stop-off privilege which the Chesapeake & Ohio has provided, and goes further in suggesting that routings and rates so established may be limited to the Applicant's traffic. In other words it does not suggest that the same routing be provided for through traffic upon which no stop-off privileges are required.

What this submission amounts to is a plea for relief from geographical disadvantage, and is the equivalent of asking that an industry not on the direct route between origin and final destination be legislated into such a position through the medium of the Board's powers.

There are many stop-off privileges in force on the various railways, and where granted are applicable at points on the direct line of transit, but where the same stop-off privilege is accorded to industries not on the direct line of transit a charge is made for the out-of-line haul. It becomes immediately apparent that if the Board should direct a routing via other than a direct route and thereby eliminate the off-direct-line disability, there could be no limit to the extent to which it must apply the same principle to all points where out-of-line haul charges are now incurred. Consequently such action would merely deprive the railways of haulage earnings to which they are entitled, and would, by equalizing geographical conditions, deprive some industries of their geographical advantages.

The Board has consistently held that it is without power to alleviate geographical disadvantages and I can see no grounds advanced herein to apply any different conclusion.

To sustain the applicant's plea, that unjust discrimination results from the maintenance of joint rates and routes through St. Thomas in connection with the New York Central while denying similar arrangements through the same junction in connection with the Chesapeake & Ohio, would entail a finding calling upon the Canadian Pacific Railway to remove it.

Counsel for the Canadian Pacific asserts, and I think correctly, that as an alternative to the establishment of the C. & O. routing, it would be entitled to cancel the New York Central route. If the latter alternative was applied it could only be to the detriment of the Applicant.

It is difficult, however, to find any grounds upon which the Applicant can adduce unjust discrimination from this condition. It might well be that the Chesapeake & Ohio Railway could more successfully so plead, and in such case, a finding requiring the removal of the said condition could take the same course as I have mentioned above and be equally detrimental to the Applicant.

The position of the Chesapeake & Ohio Railway in this case was not made altogether clear. My brother Commissioner directed the following question to counsel and received the following reply:

"COMMISSIONER CHASE: But would the Chesapeake and Ohio be willing to join in a through rate with the Canadian Pacific and provide for this milling in transit privilege?"

"MR. CHAFFEE: I think under reasonable arrangements, Mr. Commissioner, yes we would." (Transcript, p. 1660).

but it was not stated what was implied by "reasonable arrangements" and it can be only assumed that the divisions of joint revenue would be the governing factor of that line's willingness to so participate in a joint rate.

It is beyond question that we do not possess powers to compel carriers in a foreign country to agree to the establishment of a joint rate over their respective lines, and I do not take the apparent willingness of the Chesapeake & Ohio to join in the desired rates as an undertaking to the Board that it will accept the Board's findings as to the measure of such rates, nor do I think the Chesapeake & Ohio can bind other lines in the United States to concur in the establishment thereof through the medium of any Order we may issue.

We were referred to a number of previous cases as establishing jurisprudence both as to our powers to grant or deny the application. I see no point in discussing these citations here, as the essential point, and in fact only point, before us is the allegation of unreasonableness and unjust discrimination.

The reasonableness of a rate is not established merely by referring to another rate via an entirely different route. In this instance the through rate from point of origin to final destination in the United States is uniformly maintained at the same level via many specific routes. If that fact alone was the criterion of reasonableness we could be confronted with other demands from other interested parties for the establishment of additional routes to overcome off-direct-line geographical disadvantages, and Counsel for the railways point out that it would be equally appropriate to establish a joint rate to a point in the United States via a junction point in Canada to take the traffic through a stop-off point on another line. There must be some normal circumstances to justify such action and usually all reasonably direct routes are established voluntarily by the railways with preservation of ordinary rights as to long haul routing of the originating carrier.

I do not propose here to deal with what constitutes the rights of originating carriers as to the long haul, for the reason that it is not involved in the application. The proposed revision to the tariffs submitted by counsel for the Applicant distinctly shows he does not seek to attack any such rights. Obviously this must be so as the Applicant will continue to route his traffic through St. Thomas via the line from which stop-off privileges are to be secured, hence it would be merely a diversion of the traffic from the one line to the other without change in the length of haul by the Canadian Pacific Railway.

Apart from the question of the Board's jurisdiction to direct the establishment of a joint international routing, I do not consider we could direct a routing and limit it to a specific type of traffic and person; nor do I consider we should direct the establishment of a joint rate and routing merely for the purpose or securing to an industry the advantages of a transit privilege. It has been held on several occasions that transit privileges are accorded in the discretion of the railway; they do not become a right of the shipper. Such transit privileges as a railway may establish on its own line cannot be used as the criterion for the establishment of joint routings with other lines.

On the allegation of unjust discrimination, the burden falls upon the Applicant to prove that by an action of the railway he has suffered actual detriment to the advantage of others who have been granted an undue preference at his expense. This condition was not shown to exist, in fact the availability

of the New York Central routing and stop-off privileges makes it apparent that the only disadvantage the Applicant incurs is that caused by its geographical location.

Having considered fully all evidence and argument, I have no alternative but to dismiss the application, and an Order to that effect will issue.

OTTAWA, March 11, 1953.

A. SYLVESTRE

I concur:

H. B. CHASE.

Order No. 81008

In the matter of the application of West Lorne Lumber Company Limited for establishment of joint rates on lumber to United States' destinations via St. Thomas, Ontario and the Chesapeake & Ohio Railway:

File No. 8641.89

THURSDAY, the 12th day of March, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in London, Ontario, on January 26 and 27, 1953, in the presence of Counsel for the West Lorne Lumber Company, Limited, the Canadian Pacific Railway Company, the Chesapeake & Ohio Railway and the Canadian National Railways—

It is ordered that the application be, and it is hereby, dismissed.

HUGH WARDROPE,
Assistant Chief Commissioner.

Oral Judgments delivered at Vancouver, B.C., March 24, 1953

INDEX

	PAGE
ORAL JUDGMENTS:	
Application of British Columbia Telephone Company for increased rates.....	32
Mountain Differential in Passenger Fares and Sleeping and Parlour Car Charges..	35
Application of the Great Northern Railway Company <i>re</i> highway crossing over C.P.R. between Raymur and Campbell Aves., Vancouver.....	39
Application of Granby Consolidated Mining, Smelting & Power Co. Ltd. <i>re</i> tolls on copper ore.....	40
Application of British Columbia Lumber Mfrs. Assoc. to remove discrimination in rates on lumber from Pacific Coast to Prairie points between Regina and Winnipeg.....	40
Application of Buckerfield's Ltd. for disallowance of increased rates on Dried Ground Grass and Alfalfa Meal.....	41
Equalization and Grade Crossings.....	42
Adjournment	42

VANCOUVER, B.C.,
March 24, 1953.

ORAL JUDGMENTS

THE CHIEF COMMISSIONER: The Board on its present itinerary has now spent a month on the Pacific Coast, and apart from having held hearings with respect to Equalization and Grade Crossings, it has been our duty and, I might add, pleasure to hear a number of cases in which the Province of British Columbia and its citizens are concerned. Some of these cases were of major importance to the whole Province and others are individual ones involving alleged unreasonableness or unjust discrimination in specific rates affecting a limited territory.

At the opening of these hearings it was announced that the Board would endeavour to dispose of these matters as expeditiously as possible. I also remarked that we would make every endeavour to effect some disposition of the cases which came before us prior to leaving Vancouver, even if this meant that in some instances we might render only oral judgments.

I propose to deal with the various cases in the order in which they were heard. That brings first on the list the case of the British Columbia Telephone Company. We have managed to prepare written reasons in this case and, as our judgment is quite lengthy, I do not propose to read it, but a limited number of copies of it are available for distribution. For the immediate benefit of the parties concerned, their counsel and the press, however, I will now outline the main features of the judgment.

APPLICATION OF BRITISH COLUMBIA TELEPHONE COMPANY FOR INCREASED RATES

File No. 32560-35

As we mentioned in the Interim Judgment rendered at Ottawa on the 4th of December, 1952, the controverted question of surplus would be left for determination at the final hearing which has recently concluded.

As will be seen on perusal of the judgment, the desirability, and more, the necessity, of a reasonable surplus was not contested.

I believe that the telephone public of British Columbia would not be adverse to reasonable increases in rates provided the demands for new telephones were met and the installation of automatic exchanges expedited. To accomplish the foregoing requires money. To ensure the successful raising of money in the public market and to maintain the confidence of the investing public, permissible surplus should, I think, be allowed to increase in keeping with the expansion of the enterprise.

Mr. Bull, Counsel for multiple respondents, in his argument suggested that the surplus of something less than \$700,000 sought by the Company, even if it were justified, might be provided, at least in part, by means other than increased rates. One of the means suggested was that the Company should capitalize interest during construction. We have given effect to this contention to the extent of \$110,000, and the revenues requested by the Company have been reduced accordingly. There are detailed reasons given in the judgment as to how the sum of \$110,000 is arrived at.

Mr. Bull also suggested that the Board disallow for rate-making purposes at least some portion of the 35 per cent commission presently being paid by the B.C. Telephone Company to a subsidiary of Anglo Canadian Telephone Company called Dominion Directory Company Limited, which commission is paid to the Directory Company in compensation for securing advertising in the B.C. Telephone Company's directory.

If I did not entertain doubts as to the Board's jurisdiction to effect, for rate-making purposes, the equivalent of a 5 per cent reduction therein, I would not hesitate to do so in view of the increased volume in directory advertising since the Board last had cause to examine this contract as well as for other reasons more fully set out in the judgment. Under the circumstances, because of the doubts which I entertained, I suggested to the telephone company's legal representatives that they ascertain if under these particular circumstances, consent of the Directory Company could not be procured to make a voluntary reduction of 5 per cent in the rate of commission presently paid, effective as of January 1, 1953. This, it is calculated would effect a saving to the Telephone Company of approximately \$40,000 per annum based on 1952 volume of business and which in turn would be deducted from the Company's revenue requirements. I was particularly pleased to receive from Mr. Sherwood Lett, Q.C., an affirmative reply applicable to directory advertising contracts sold after January 1, 1953.

It might be recalled that the Company's application requested additional revenues amounting to \$2,964,701. This was voluntarily reduced by the Company to the extent of \$350,000, by reason of the announced reduction in Federal corporate income tax. It was further voluntarily reduced to the extent of the \$40,000 previously mentioned, and to these two amounts should be added the sum of \$110,000 which the Board allowed in respect of Mr. Bull's request for capitalization of interest during construction. It will be seen that the additional revenue requested by the Company has thus been reduced by the sum of \$500,000, which, if subtracted from the amount asked for, leaves a remaining amount of \$2,464,701. The Interim increase which was granted was calculated to provide the sum of \$1,739,047, leaving a sum of \$725,654 which we are allowing in our judgment, instead of \$1,225,654, which would otherwise have been required. Thus, although the reduction of the sum of \$500,000 does not relieve us of the necessity of ordering an increase in rates, nevertheless it does mean that the increase herein allowed will be less than otherwise would have been the case.

One must bear in mind, of course, that the B.C. Telephone Company, in keeping with the tremendous economic expansion and growth in population in British Columbia, has been called upon to supply telephone service at a rate which is unprecedented in the history of the Company. However, I have had occasion during the recent hearing to refer to the fact that considerable criticism of the service rendered by the Company had been brought to the attention of the Board. I am convinced that the main cause of service complaints arises from the fact that the Company has not yet been able to dispense with manually-operated or partially manually-operated exchanges. We set aside a day for hearing of this case for Victoria. In that City, when the Board last sat on the preceding application made by the Company, many and vigorous were the complaints concerning the telephone service, which were presented to the Board. When we were in Victoria early this month not one complainant appeared before us.

We made immediate inquiries as to why complaints had diminished almost to the vanishing point in the City of Victoria and my colleagues and myself had the opportunity of seeing what I think has been largely responsible for bringing about the change. We visited the main exchange which has been extended and in which additional equipment has been installed, all of the automatic type. I am convinced that if the City of Vancouver were equipped to the same comparative extent with automatic equipment the complaints we have heard would have been greatly reduced.

There is one other aspect of this case to which I would like to draw particular attention and it has to do with intercompany contracts. As I mentioned at the hearing of the Interim application in Ottawa and repeated at the outset of this final hearing, I was most anxious that any lingering doubts which might prevail in the public mind that the Telephone Company in respect of these contracts had failed to make a full and complete disclosure of its affairs should be dispelled.

In 1950, when the Board on a preceding application heard evidence, the Applicant was then what is sometimes referred to as a one-man company, controlled by a single holding corporation known as Anglo Canadian Telephone Company. This holding corporation likewise controlled other companies which had contracts with the applicant company. The very nature of the above-mentioned intercompany relationship might, naturally enough, cause subscribers to entertain doubts and have misgivings as to the fairness and propriety of such contracts. During the last few years, however, stock ownership in the Company has changed radically and rapidly. Thousands of British Columbians have become shareholders, with the result that the public at large now own almost 50 per cent of the voting shares of the B.C. Telephone Company.

It should, I think, be gratifying to the Canadian shareholders of the Applicant Company to note that not only has the B.C. Telephone Company ever since the filing of the present application made every endeavour to place at the disposition of the Board itself, as well as counsel and auditors retained by some of the respondents, all pertinent statements of account, contracts and the like of which it is possessed, but in addition, with the collaboration of the Anglo Canadian Telephone Company, the balance sheets, statements of account and other like documents concerning the above-mentioned holding company and its affiliated companies have likewise been furnished to the Board and counsel for respondents well in advance of the hearing. This action and the full investigation which we have carried out will, I trust, serve to clear the atmosphere and dispel any public suspicion.

The action of the Anglo Canadian Telephone Company and its affiliate, the Dominion Directory Company, in voluntarily accepting a suggestion of the Board which will have the effect of placing proportionately more money in the treasury of the Telephone Company and less in that of the Directory, should likewise go a long way, I think, towards creating public good-will, which is so essential for a utility wherein Canadians are increasingly investing their earnings.

An order indicating the changes in rates allowed is contained in the judgment. So that the general public may have a practical example of what the increase we have allowed means in terms of their monthly telephone bills I have asked our technical staff to prepare a few sample statements for some of the more common types of telephone service, on which is shown how much the increase we are permitting today adds to the presently existing rates.

This extract which our technicians have prepared may not be exactly accurate, but it will serve to show what is involved. It is entitled "The approximate effect of the judgment on telephone rates in the following exchanges". Residential individual, present rates, say, in New Westminster are \$4.10. By reason of the increase they will be \$4.20. In Victoria a bill of \$4.35 will become \$4.50. In Vancouver the present rate of \$5.20 is increased to \$5.35.

As another example, on residence two-party lines, present rates \$3.20; the effective rate will be \$3.35 in New Westminster. In Victoria \$3.50 will become \$3.60 and in Vancouver \$4.10 will become \$4.25.

Business individual, the present rate in New Westminster is \$7.70, the new rate will be \$8.20. In Victoria the present rate is \$8.90, the new rate will bring it up to \$9.50. And in Vancouver the present business individual rate is \$12.40; it will become \$13.25.

These statements, I think, have a practical value. A judgment may carry a great many figures but I think what the general public is interested in is to know in terms of the accounts they pay just what our judgment means.

The order authorizing the increase has been signed, and I may add that this judgment and the other judgments which we are about to deal with have been concurred in by my two colleagues.

(File No. 47054)

MOUNTAIN DIFFERENTIAL IN PASSENGER FARES AND SLEEPING AND PARLOUR CAR CHARGES

The next case is the matter of the application of the Attorney-General of the Province of British Columbia under the provisions of the Railway Act for an Order removing the so-called Mountain Differential in passenger fares and sleeping and parlour car charges—File No. 47054.

This judgment, gentlemen, can be nothing more than an oral judgment. I have a few notes before me and I do not intend to deal with all the aspects of this case, but if on perusal of the oral judgment which we are about to render, the parties to the case find that they would like us to supplement this oral judgment by written notes we will be glad to do so.

The initial application in this matter was made by the Attorney-General of the Province of British Columbia on behalf of that Province on the 31st of October, 1952 and was filed with the Board by counsel for the Province on November 3. Reference will be made later herein to some amendments and additions to the original complaint.

The original complaint was directed against the Canadian Pacific Railway Company, the Esquimalt and Nanaimo Railway Company, the Canadian National Railway Company and the Northern Alberta Railway Company with respect to passenger rates to, from and between points in the Province of British Columbia on such railways.

The application was also directed against other member companies of the Railway Association of Canada in so far as they participate in certain passenger fares between such other railway companies and the four companies specified, to the extent that such fares are alleged to contain a higher differential within the Province of British Columbia.

The application as drawn requested in brief: (1) that all maximum passenger fares between points in the Province of British Columbia which exceed 4 cents per mile be reduced to a maximum of 4 cents per mile; (2) that the return first-class fares be reduced proportionately; and (3) that all passenger fares charged in the Province of British Columbia be reduced to an amount per mile so as not to exceed the tolls charged for the same class of fares in other provinces. The Province of Alberta subsequently joined in the complaint to the extent of a small territory in Alberta—Calgary, Macleod, Wolf Creek and Briggs, Alberta, and west thereof, where a differential of half a cent per mile is also charged.

The Province of British Columbia subsequently made a motion that all sleeping and parlour car fares, tolls or charges from, to and between points in the Province of British Columbia, be reduced to a comparative amount with other provinces.

The so-called Mountain Differential in passenger fares and freight rates has been a matter of contention ever since the differential was first established. In the case of freight traffic it was partially removed due to changed circumstances and conditions, principally the increased density of traffic in British Columbia, by action of the Board in 1927, and in 1949 the freight differential was entirely removed.

In the case of passenger fares, the matter has been before the Board on two previous occasions. On these occasions the differential in passenger fares was coupled with the differential in freight rates. Subsequently, as I have said, the freight rate differential alone was dealt with, and was partially removed in one case and entirely removed in the other.

On the contrary, after the first two complaints with respect to the passenger differential had been adjudicated by the Board in 1909 and 1914, no further case came before the Board until the application of the Attorney-General of the Province of British Columbia dated the 31st of October, 1952 and filed with the Board on November 3 of that year.

It is worthwhile, I think, to refer briefly to the prior Judgments in the previous cases involving the passenger differential.

The first case is reported in 8 C.R.C. at page 346 and the second in 17 C.R.C. 123. These cases were decided respectively in 1909 and 1914, and the latter case is the well-known Western Rates Case. In the former case the matter was submitted to the Board solely on the basis of contract, that is that there was an implied contract between the Government of Canada and the C.P.R. whereby passenger fares charged by the railway in British Columbia would not exceed the fares charged in other provinces of Canada. The Board found that there was no such contract, either expressed or implied, and the application failed upon that ground. The Board concluded its Judgment, however, with the following statement:

"If the applicant desires to give evidence for the purpose of establishing that, in view of all the circumstances, the rates now charged in British Columbia are unreasonably high, or that undue discrimination exists, leave for such purpose should be granted; otherwise, upon the record as it stands, the application fails."

The next we heard of the passenger differential was an application by the Board of Trade of Vancouver on October 8, 1909 which, among other things, requested an order directing the C.P.R. Company to "cease from making and charging discriminatory passenger rates to passengers in British Columbia and especially commercial travellers, as compared with the passenger rates charged by said Railway in other portions of Canada".

The evidence was closed and final judgment made in this case on February 13, 1912; but decision had not been rendered when the matter became involved with other complaints in regard to Western rates, both freight and passenger, and it became a part of the Western Rates Case.

In the latter case, at page 226, the matter of British Columbia passenger fares was dealt with and while refusing a reduction or the elimination of the amount of differential until the passenger traffic showed better results, the Board said, on the general question of the equalization of passenger fares:

"While a parity of fares throughout the whole country is desirable, the exercise of the Board's jurisdiction in reducing rates cannot proceed on the isolated question of what would or would not be an advantageous rate to the public apart from all reference to the necessary expenses incurred in the service."

The Board also said:

"While my opinion is that the reduced cost flowing from the improvements on the line of the Canadian Pacific, and the construction of competing lines at better grades, will lead to a reduction of passenger rates in the near future, the situation at present, in the light of today's returns and operating expenses, does not afford the slightest justification for directing a reduction in the passenger rate."

Thus it may be seen that the whole policy of rate-making and toll-making in Canada was based on equality, and equality was something that was to be striven for. In regard to passenger fares it was specifically said in this case that parity was desirable. The circumstances at that time did not warrant a reduction or even the elimination of the disparity but I think it is important to note that a cardinal principle and the intention and the hope of those who were presiding in rate cases in those days was, and I think always continued to be, that the goal of equality was to be striven for and to be reached as soon as reasonably possible.

Although that statement was made in the year 1914, or 39 years ago, no further effort appears to have been made to request the removal of the Mountain Differential in passenger fares until a complaint was made to the Royal Commission on Transportation (1951).

It occurred strange to me that in the two previous cases passenger fares and freight rates were coupled together, they were regarded as one, and how it came about when the differential was ultimately removed in regard to freight rates in 1949, the application for parity of passenger fares was omitted from that application, I don't understand. I have heard various explanations. Some say that it was an oversight. However, it was brought up before the Royal Commission.

Some difference of opinion arose between counsel for the applicant and the respondents as to what the report of the Royal Commission intended with regard to passenger fares in British Columbia; it was contended by the railways, as the Royal Commission made no recommendation for legislation, that no action should be taken; on the other hand, counsel for the applicant considered that the report of the Royal Commission, suggesting that the Province of British Columbia made application to the Board with respect to this passenger differential, meant that the Royal Commission considered this Board had ample powers to deal with the matter under the current Railway Act, and would deal with it on application without further legislation.

In this connection it may be recalled that the Royal Commission, under the preamble of its "Instructions" was directed to report on certain anomalies existing in the rates and tolls within certain provinces of Canada, and the Commission in its report on page 135 stated that it appears that an anomaly exists whereby under present conditions the passenger fares for one part of the country should be different from those which prevail elsewhere.

It was apparent that the application in 1914 to remove the passenger differential in the Western Rates Case failed for the simple reason that conditions had not so changed between 1909 and 1914 as to warrant the removal of the Mountain Differential in the passenger fares.

If you examine those cases the whole basis on which the railway made its case was that there were tremendous costs involved in the haul through the Pacific region in the mountainous region. It was said in one of those preceding cases that it was anticipated that better gradients would be effected and that the operation of the Canadian National coming in with an easier road-bed would have the effect of reducing passenger fares in the Pacific Region, but that did not materialize.

In the present case the railways have not insisted very much upon the cost involved. They say that the cost of supplying service is not really the criterion

for rate-making. But if you eliminate that then I find great difficulty in looking for a reasonable justification for the continuance of a situation which the Royal Commission has called anomalous and which to any ordinary individual is extraordinary—and it is this, and I think there was ample evidence in the record to at least prove this much—that passenger fares are one-half cent higher per mile in British Columbia than they are in any other province in the Dominion.

Now, the evidence which was submitted in this case was directed rather to comparing districts, and that is understandable, because when we asked the railways for comparative costs province by province they said they had not a breakdown of that kind. But it seems to me that in order for that extraordinary situation to be justified where, in one province out of ten, passenger fares are higher, there should be some proof of a character that would justify it. And if you eliminate costs as the responsible factor, then we must look for something else.

If you take into account the fact that the whole economy of rate-making was intentioned in the direction of having equality and you have such a striking inequality, I think there would have to be compelling reasons for its continuance, and I have not been able to find in the record any reasons of such a character.

The applicants' case was made on two points. One was unjust and unreasonable rates. The other was on the ground of unjust or undue discrimination. We don't intend to deal with the question of unjust and undue discrimination because I don't think we have to, for we can come to a conclusion on the case with regard to unreasonableness.

We have carefully weighed the exhibits and the evidence filed. We find the perpetuation of this situation which by its very name is something that is irksome, namely, a differential, is not justified and that the time has come that the differential can be dispensed with and should be eliminated. It should be eliminated, we feel, because if you take the whole purport of rates and rate-making and you take the evidence, you cannot find any reasonable justification for this situation.

We have carefully examined the evidence and exhibits filed in this matter and we find that there has been a substantial change in conditions so far as this territory is concerned. While it is true that the railways show that the number of passengers has continually declined in the past ten years, on the other hand the exhibits also show that the low point in the economics of the passenger service was reached in 1950, and that since that time earnings from passenger train service have been on the upgrade, principally brought about by the passengers travelling greater distances, and using the more expensive services, and miscellaneous increases in passenger fares, sleeping car and parlour car rates, and increases in express rates for goods carried in passenger trains which have increased the revenue of the railways. The improvement in this regard is more pronounced in British Columbia than in some other provinces, and this, I think, is an additional reason why there is no longer a justification for the discrimination or distinction or differential which exists.

With regard to the question of unjust discrimination, as I just mentioned, we are making our findings solely on the question of the differential being neither just nor reasonable under all the circumstances, and are not attempting to adjudicate in this case upon the question of unjust discrimination.

The railways' position can be readily understood. When railways have to come before this Board for repeated increases they must be loath and they must be careful not to forego voluntarily any revenues, because if their revenues are reduced in one respect and they need the revenues and those are part of their requirements, then these moneys must be found elsewhere. I do feel that the removal of the mountain differential will not only remove an anomaly but it will also remove a grievance. The very idea of differentiation between one part of our country and the other seems to me to be contrary to the goal of unity

which we must strive for, the railways have voluntarily lessened the differentiation to some extent, and I am sure that if it were not for this situation I have just mentioned, they might be ready and willing to remove it entirely.

Another thing I wish to mention is this: that the amount involved—the amount for both railways, I mean—\$500,000 in one case and \$200,000 in the other, is a lot of money on the face of it, but in railway matters it is not a relatively large amount. I also think that it is not at all sure that these losses will be actually incurred. It could be that by lowering passenger fares and as a result of increased goodwill the traffic may at least to some extent increase.

The railways were of the opinion that when the freight rate mountain differential was removed it was going to mean a tremendous loss, but that loss did not materialize, and in any event I think that because the passenger differential is a long-standing, irksome, undesirable differentiation, even if there may be some loss in passenger fares it will be more than compensated by the benefit which the railways will receive from the elimination of a differential which lacks the elements of justness and reasonableness.

“Upon hearing the matter at the sittings of the Board at Vancouver, B.C., on March 9th to 11th, 1953, in the presence of counsel for the applicant, and for the respondents, Canadian Pacific Railway Company, Esquimalt and Nanaimo Railway Company, the Northern Alberta Railways, and the Canadian National Railways, and the Board having pronounced oral judgment in Court at Vancouver on the 24th day of March, 1953, finding that the fares charged in the standard passenger mileage tariffs of the respondent railway companies to the extent that they exceed 4 cents per mile in the Provinces of British Columbia and Alberta; Calgary, Fort Macleod, Wolf Creek, and Briggs, Alberta and West thereof; and that fares in passenger coaches to the extent that they exceed 3 cents per mile in the said territory; and that charges for accommodation in sleeping and parlor cars to the extent that they provide for the charging of a so-called Mountain Differential higher than the charges East of the said territory, are unjust and unreasonable;

It is ordered:

That the respondent railway companies remove the said differentials in the fares and charges referred to herein by filing amendments to that effect to their tariffs, the amendments to become effective on or before May 1st, 1953.”

Gentlemen, before we proceed with the remaining cases, we will adjourn for five minutes.

(A short recess was here taken)

(File No. 572-24)

APPLICATION OF THE GREAT NORTHERN RAILWAY COMPANY

In the order in which they were heard, the next application which came before us was in the matter of the application of the Great Northern Railway Company under sections 51 and 259 and all other relevant sections of the Railway Act for an Order directing the City of Vancouver to assume the Applicant's share of the cost of maintaining and protecting the highway crossing over the tracks of the Canadian Pacific Railway Company between Raymur and Campbell Avenues in the City of Vancouver, British Columbia, and amending Order No. 47259, dated August 25, 1931 accordingly.

My colleagues Mr. MacPherson and Mr. Matthews sat on that application and I will ask Mr. MacPherson to announce what disposition he made of the case.

COMMISSIONER MACPHERSON: During the hearing of this case counsel for the City of Vancouver stated that a meeting had been held last fall regarding this crossing. There were present at the meeting the engineers of the Board, the Great Northern Railway, the City of Vancouver and the Harbour Board. Counsel for Vancouver raised the point that in the meantime nothing had come of this meeting and he wondered what was wrong. So that after the case was heard we announced that pending the City of Vancouver, the Great Northern Railway and the Harbour Board getting together in this case and coming to a solution of it, if the Board is not advised between now and the 15th of April, the Board will deal with it in a judgment at that time.

(File No. 1179-57)

APPLICATION OF GRANBY CONSOLIDATED MINING, SMELTING AND POWER COMPANY LIMITED

THE CHIEF COMMISSIONER: In the matter of the application of the Granby Consolidated Mining, Smelting and Power Company Limited under Sections 314 to 332 of the Railway Act (1) for an Order directing that in order to determine and apply rates named in Supplement No. 20 to Canadian Pacific Railway Company Tariff W110-C and any and all subsequent or substituted tariffs, until further order of the Board, the export price of copper shall be deemed to be fourteen cents per pound; (2) for an Order that the tolls to be established shall not be made conditional upon shipment in quantities averaging not less than five thousand net tons per day for each four-month period.

As I mentioned at the conclusion of the hearing of that case, it looked and it still looks to me as one where the railway and the parties concerned should get together and agree on some sort of action. The Mining Company is suffering and it is in nobody's interests that mines of this kind should close down, and some of them have had to close down. By the same token, however, the railways cannot forego revenue that they need—it may be that the expression to “forego revenue” may be a misnomer as I think it was proven in this case that it may be a question of diminishing return. If the railway does not make some concessions, in the last analysis they will not get as much as they would get if they came to the aid of these companies during this particular time.

As I announced at the hearing, we are holding this case under advisement for a month in order to give the parties an opportunity to look thoroughly into ways and means of correcting the situation, and only in the event of our not hearing from the parties within that time will it be necessary for us to pronounce judgment.

(File No. 26901-62-6)

APPLICATION OF BRITISH COLUMBIA LUMBER MANUFACTURERS' ASSOCIATION

The next case is in the matter of the application of the British Columbia Lumber Manufacturers' Association for an Order of the Board under sections 33, 314, 316, 317, 319, 325 and 344 of the Railway Act directing the Canadian Pacific Railway Company and the Canadian National Railways to remove the discrimination in the rates against shipments of lumber from the West Coast to Prairie points between Regina and Winnipeg, inclusive.

In order to avoid confusion, it should be recalled that the B.C. Lumber Manufacturers' Association have made two separate and distinct complaints to the Board with respect to rates on lumber, timber, and other like commodities.

One complaint, which has not yet been set down for hearing, is a general complaint of unreasonableness in the lumber rates, and this will be heard at some future date.

The application which came before the Board for hearing here at Vancouver on March 18th is a complaint dated January 19, 1953, based on the ground of unjust discrimination in the rates and rules governing the movement of lumber from British Columbia coast points to points on the Prairies in the general territory Regina to Winnipeg, inclusive, as compared with the rates from Seattle and other points in the States of Oregon and Washington to the same territory. Not only are the rates on lumber from Vancouver and other B.C. points for example, higher than from Seattle, but there is a greater charge also in the case of poles, piling and square-sawn timber longer than 48' 6", by a rule in the governing tariffs under which the rates from Vancouver are assessed at the higher Group B rates, whereas from Seattle there is no such surcharge, and it is also stated that there is no such surcharge on shipments from Vancouver, for example, to points east of Port Arthur, Ontario.

There is ample and uncontradicted evidence on the record that the rates and the rule referred to are unjustly discriminatory against British Columbia shippers and unduly preferential in favour of shippers in the States of Washington and Oregon because the Canadian Pacific Railway Company and the Canadian National Railways both join with the American carriers in the lower rates from Seattle, etcetera to the same destinations and, in part, over the same routes as are applicable from British Columbia shipping points to the said territory.

Since unjust discrimination has been found as a fact, we have no option but to order it removed under the provisions of the sections of the Act invoked by the applicant, and an Order will, therefore, issue requiring the removal of the said discrimination on or before the 31st of May, 1953.

There are, of course, two ways of removing discrimination—one, by increasing the lower rate, and the other by reducing the higher rate, and it has been the practice, with some exceptions, to issue an Order merely requiring the removal of unjust discrimination, leaving to the railway companies the option of the manner in which the discrimination is removed.

In this case the Board deems it advisable to say that the rule referred to with respect to longer poles, piling, and square-sawn timber, bears in some respects the appearance not only of unjust discrimination but of unreasonableness. In dealing with this rule the Board will require the railway companies to present for the Board's consideration a more reasonable rule with respect to such poles, piling and square-sawn timber.

The order which I have before me simply requires the railways to remove the unjust discrimination on or before the 31st of May next.

(File No. 30686-37)

APPLICATION OF BUCKERFIELD'S LIMITED

The final matter heard at this point is the application of Buckerfield's Limited for the disallowance of the increased rates on Dried Ground Grass and Alfalfa Meal from points in British Columbia and Alberta to the Head of the Lakes for furtherance to points in Eastern Canada.

Since the original application was filed, the issues presented in this case to the Board at the hearing in Vancouver have been very much broadened, creating a rather difficult situation for the Board to make an immediate decision.

The matter will therefore be taken under advisement for a period of a week. In the meantime it is hoped that some settlement of the matter between the applicant and the Railways can be worked out which will minimize the present broad implications that are involved in this case. Should this not occur, however, the Board will thereupon determine the matter.

(Files Nos. 45464 and 11026-82)

EQUALIZATION AND GRADE CROSSINGS

Apart from the cases which we have dealt with today and which include all cases of particular applications, the Board of course had before it matters concerning Equalization and Grade Crossings. These types of hearings are continuing ones. It is not expected that we will deal with them as we proceed and we are happy at the progress we have made in both these respects during our stay in Vancouver, and we would like to thank and congratulate the provincial government and the other parties on their help and collaboration and the many valuable suggestions which they have given us. The same is true of many concerns and rate experts of which British Columbia has more than its share, and they, too, have been great help to the Board. And we wish to express our appreciation and our great pleasure at having had the opportunity of staying in this glorious province of yours for over a month.

ORDER No. 81055

In the matter of the application of the British Columbia Lumber Manufacturers' Association for an Order of the Board under sections 33, 314, 316, 317, 319, 325 and 344 of the Railway Act directing the Canadian Pacific Railway Company and the Canadian National Railways to remove the discrimination in the rates against shipments of lumber from the West Coast to Prairie points between Regina and Winnipeg inclusive.

File No. 26901-62-6

TUESDAY, the 24th day of March, A.D. 1953.

At Vancouver, B.C.

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*
 F. M. MACPHERSON, *Commissioner.*
 O. A. MATTHEWS, *Commissioner.*

Upon hearing the matter at the sittings of the Board at Vancouver, B.C., on March 18, 1953, in the presence of counsel for the applicant, and for the respondents, Canadian Pacific Railway Company and the Canadian National Railways, and the Board having pronounced oral judgment in Court at Vancouver on the 24th day of March, 1953, finding unjust discrimination as set forth in the said Judgment.

It is ordered that:

The said Railway Companies remove the said unjust discrimination on or before May 31, 1953.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 81054

In the matter of the application of the Attorney-General of the Province of British Columbia under the provisions of the Railway Act, for an Order directing (1) that all maximum passenger fares applying to, from, and between points in the Province of British Columbia be reduced to not exceed four (4) cents per mile; (2) that return fares between the said points be reduced to amounts not exceeding return fares granted in other Provinces of Canada for similar distances and class of fares; (3) that all passenger fares, including fares, tolls, or charges for sleeping and parlour car accommodation, to, from, and between points in the Province of British Columbia be reduced to not exceed like fares, tolls, or charges for the same or similar distances in other Provinces of Canada.

File No. 47054

TUESDAY, the 24th day of March, A.D. 1953.

At Vancouver, B.C.

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*F. M. MACPHERSON, *Commissioner.*O. A. MATTHEWS, *Commissioner.*

Upon hearing the matter at the sittings of the Board at Vancouver, B.C., on March 9th to 11th, 1953, in the presence of counsel for the applicant, and for the respondents, Canadian Pacific Railway Company, Esquimalt and Nanaimo Railway Company, the Northern Alberta Railways, and the Canadian National Railways, and the Board having pronounced oral judgment in Court at Vancouver on the 24th day of March, 1953:

It is ordered:

1. That tariffs of the Canadian National Railways; Canadian Pacific Railway Company, and Esquimalt and Nanaimo Railway Company publishing standard maximum passenger fares in excess of four (4) cents per mile shall be forthwith amended to not exceed four (4) cents per mile:

2. That tariffs naming coach fares in excess of three and a half (3½) cents per mile within the Province of British Columbia and the Province of Alberta west of and including Calgary, MacLeod, Wolf Creek, and Briggs, shall be forthwith amended to not exceed three and a half (3½) cents per mile within the said territory:

3. That tariffs naming tolls or charges for sleeping and parlour car accommodation within the said territory which provide for the charging of the so-called Mountain Differential, shall be forthwith amended by removing the said Mountain Differential:

4. That tariffs naming first class fares, coach fares or charges for sleeping and parlour car accommodation between points in the said territory and other points in Canada which for that part of the journey within the said territory exceed the fares and charges hereinbefore provided for, shall be forthwith amended by removing the said excess therefrom:

5. That amendments to tariffs, as herein prescribed, shall be published and filed to become effective not later than May 1, 1953:

6. That standard maximum passenger fares as prescribed in paragraph numbered 1 and as published and filed, shall be deemed to be approved tariffs, and shall be published in two consecutive weekly issues of the *Canada Gazette*, preceded by the following notice:

"The undermentioned standard passenger tariff has been approved by Order number 81054, dated March 24th, 1953, of the Board of Transport Commissioners for Canada, and is hereby published as required by Section 334 of the Railway Act".

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 81084

In the matter of the application of the Canada Steamship Lines, Limited, under Section 21 of The Transport Act, 1938, for approval of their Standard Mileage Freight Tariff C.T.C. No. 248, cancelling C.T.C. No. 234, on file with the Board under file No. 42082·1:

THURSDAY, the 26th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Mileage Freight Tariff C.T.C. No. 248, on file with the Board under file No. 42082·1, be, and it is hereby, approved, subject to complaint and investigation and determination as to rates or charges, as provided by The Transport Act, 1938.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81083

In the matter of Agreed Charge between certain railway companies, steamship companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, which agreed charge was approved by Order No. 80206, dated November 17, 1952:

File No. 40994-38

THURSDAY, the 26th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

Whereas C. C. Wakefield & Co., Limited has made application under subsection 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products shipped from all points of origin in the East to all points of destination shown in Canadian Freight Association Agreed Charges C.T.C. (A.C.) No. 49, and has agreed to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the Agreed Charge approved by Order No. 80206, dated November 17, 1952, be, and it is hereby, fixed for the transport of petroleum products, as described in paragraph B of the said Agreed Charge, by the railway companies and steamship companies which are parties thereto, from all points of origin in the East to all points of destination shown in Canadian Freight Association Agreed Charges C.T.C. (A.C.) No. 49, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid, is to come into operation.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81085

In the matter of the application of Northwest Steamships Limited, under Section 21 of The Transport Act, 1938, for approval of its Standard Mileage Freight Tariff C.T.C. No. 51 cancelling C.T.C. No. 46, on file with the Board under file No. 42082-3:

THURSDAY, the 26th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the said Standard Mileage Freight Tariff C.T.C. No. 51 of Northwest Steamships Limited, on file with the Board under file No. 42082-3, be, and it is hereby, approved, subject to complaint and investigation and determination as to rates or charges, as provided by The Transport Act, 1938.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81017

In the matter of the application of Yankcanuck Steamships Limited for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-48

TUESDAY, the 17th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 269 be issued to Yankcanuck Steamships Limited licensing for the period of one year commencing January 15, 1953, the following ships to transport iron and steel products consisting of bars, billets, slabs, strip or skelp, by water between all ports and places in Canada on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Manzzutti</i>	145462	1528
<i>Mancor</i>	145465	1550

HUGH WARDROPE,
Assistant Chief Commissioner.

RE DEMURRAGE PENALTIES ASSESSED BY THE CANADIAN DEMURRAGE BUREAU
UNDER GENERAL ORDERS 201 AND 349

The following tables present in a summarized form the reports of The Canadian Car Demurrage Bureau covering car demurrage assessed for the year 1952

NOTE.—First two days over free time \$1 per day, three days or more \$5 per day.

EASTERN CANADA

1952	Total cars handled	Number released within free time	Per cent	Number held over free time	Per cent	Number held under 3 days over free time	Per cent	Number held 3 days or more over free time	Per cent
January.....	295,057	265,388	89.94	29,669	10.06	19,713	6.68	9,956	3.37
February.....	282,931	258,332	91.31	24,599	8.69	16,825	5.94	7,774	2.75
March.....	292,118	267,995	91.74	24,123	8.26	16,802	5.75	7,321	2.51
April.....	284,867	261,170	91.68	23,697	8.32	16,992	5.96	6,705	2.36
May.....	314,549	289,492	92.04	25,057	7.96	18,272	5.81	6,755	2.15
June.....	289,542	266,725	92.12	22,817	7.88	16,701	5.77	6,116	2.11
July.....	291,070	264,981	91.04	26,089	8.96	18,020	6.19	8,069	2.77
August.....	283,514	259,786	91.62	23,728	8.38	16,719	5.89	7,009	2.49
September.....	296,276	270,267	91.22	26,009	8.78	18,324	6.18	7,684	2.60
October.....	312,577	284,842	91.13	27,735	8.87	20,036	6.41	7,699	2.46
November.....	291,430	267,513	91.79	23,917	8.21	16,976	5.82	6,941	2.39
December.....	272,571	248,210	91.06	24,361	8.94	17,091	6.27	7,270	2.67
Total.....	3,506,502	3,204,701		301,801		212,471		89,299	
Monthly average.....	292,208	267,058	91.39	25,150	8.61	17,706	6.06	7,431	2.55

WESTERN CANADA

1952	Total cars handled	Number released within free time	Per cent	Number held over free time	Per cent	Number held under 3 days over free time	Per cent	Number held 3 days or more over free time	Per cent
January.....	133,313	125,641	94.24	7,672	5.76	5,557	4.16	2,115	1.60
February.....	124,919	117,820	94.32	7,099	5.68	5,480	4.38	1,619	1.30
March.....	132,444	123,454	93.21	8,990	6.79	6,194	4.67	2,796	2.12
April.....	127,430	120,681	94.70	6,749	5.30	4,976	3.90	1,773	1.40
May.....	138,680	130,282	93.94	8,398	6.06	6,220	4.48	2,178	1.58
June.....	129,257	122,071	94.44	7,186	5.56	5,236	4.05	1,950	1.51
July.....	139,785	131,525	94.09	8,260	5.91	5,705	4.08	2,555	1.83
August.....	138,251	129,956	94.00	8,295	6.00	5,899	4.26	2,396	1.74
September.....	150,704	139,662	92.67	11,042	7.33	7,754	5.55	3,288	1.78
October.....	163,525	152,498	93.26	11,027	6.74	7,653	4.68	3,374	2.06
November.....	152,688	142,822	93.54	9,866	6.46	7,205	5.04	2,661	1.42
December.....	150,216	141,941	94.49	8,275	5.51	6,026	4.24	2,249	1.27
Total.....	1,681,212	1,578,353		102,859		73,905		28,954	
Monthly average.....	140,104	131,529	93.91	8,571	6.09	6,159	4.46	2,413	1.63

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
FEBRUARY, 1953

Railway Accidents	180	Killed 8	Injured 183
Level Crossing Accidents	36	Killed 12	Injured 78
Totals.....	216	Killed 20	Injured 261

	<i>Killed</i>	<i>Injured</i>
Passengers	—	39
Employees	2	161
Others	18	61
Totals.....	20	261

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 70452.
1	—	3	Automobile ran into side of train. Licence: N.S. 86573.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-30740.

NEW BRUNSWICK

1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.B. C-13532.
---	---	---	---

QUEBEC

1	—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-11805.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Que. 106293.
1	2	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Vt. 36271.
1	—	1	Auto truck ran into side of train. Licence: Que. F-54429.
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 195-974.
1	—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-13110.
1	2	27	Trailer Truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-13924. Budd car was derailed.
1	—	1	Trailer truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-1253.

ONTARIO

1	—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 9196-J.
1	—	1	Automobile ran into side of train. Licence: P.E.I. 14186.
1	—	1	Automobile ran into side of train. Licence: Ont. 56-H-71.
1	—	2	Automobile ran into side of train. Licence: Ont. 1927-Y.
1	1	1	Auto truck drove onto crossing in front of approaching train and was struck. Ont. 45095-C.
1	—	2	School Bus drove onto crossing in front of approaching train and was struck. Licence: Ont. B-51589.
1	2	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 94-W-67.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. J-6062.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. FP-660.
1	—	1	Automobile ran into side of train. Licence: Ont. 53-E-3.
1	—	3	Automobile ran into side of cars being pushed over crossing. Licence: Ont. CY-822.
1	—	3	Automobile ran into side of train. Licence: Ont. B-26767.

MANITOBA

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-8865.
1	—	2	Automobile ran into side of train. Licence: Man. 9-N-923.

SASKATCHEWAN

1	—	1	Automobile ran into side of train. Licence: Sask. 52030.
1	—	1	Automobile ran into side of train. Licence: Sask. 8533.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 119280.

ALBERTA

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 24-B-49.
1	—	1	Road Grader drove onto crossing in front of approaching train and was struck.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CV-37465.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. X-84849.

BRITISH COLUMBIA

1	—	2	Automobile ran into side of train. Licence not given.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. P-4-484.

Of the 36 accidents at highway crossings, 28 occurred at unprotected crossings, and 8 at protected crossings. Fifteen occurred after sunrise and twenty-one after sunset.

OTTAWA, Ont., March 27, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 80988 Mar. 11—Extending the time within which the Great Northern Railway Company is to install protection at crossing of Renfrew Street, Vancouver, B.C.
- 80989 Mar. 11—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Leduc Subdivision, Alberta.
- 80990 Mar. 11—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Wetaskiwin Subdivision, Alberta.
- 80991 Mar. 11—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Lorraine Subdivision, Alberta.
- 80992 Mar. 11—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Coronation Subdivision, Alberta.
- 80993 Mar. 11—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Lacombe Subdivision, Alberta.
- 80994 Mar. 11—Permitting the removal of slow order at C.N.R. crossing of De Courcelles Street, Montreal, P.Q.
- 80995 Mar. 11—Authorizing The Toronto Harbour Commisisoners to re-locate a part of their main lead track in the vicinity of Keating and Leslie Streets, Toronto, Ontario.
- 80996 Mar. 11—Permitting the removal of slow order at C.N.R. crossing of Lower Middle Road, Oakville, Ont.
- 80997 Mar. 11—Amending Order No. 79435 of July 22, 1952, in the matter of application of the C.N.R. to take possession jointly with the C.P.R. of certain facilities of the C.P.R. at Farnham, P.Q.
- 80998 Mar. 11—Permitting the removal of slow order at C.P.R. crossing near station at Mapledale, P.Q.
- 80999 Mar. 11—Permitting the removal of slow order at C.P.R. crossing near station in the Village of Princeton, B.C.
- 81000 Mar. 11—Authorizing the Edmonton Pipe Line Company Limited to construct a private roadway across the right of way of the Interprovincial Pipe Line Company in Legal Subdivision 14, Section 32, Township 52, Range 23, West 4th Meridian, Alberta.
- 81001 Mar. 11—Permitting the removal of slow order at C.P.R. crossing of Paquette Boulevard near station at Mont-Laurier, P.Q.
- 81002 Mar. 11—Restricting the speed of trains at C.P.R. crossing of Lafleur Street, St. Pierre, Province Quebec.
- 81003 Mar. 11—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Willingdon Subdivision, Alberta.
- 81004 Mar. 11—Relieving the C.P.R. from maintaining cattle guards at certain crossings on its Hoadley Subdivision, Alberta.
- 81005 Mar. 11—Authorizing the C.N.R. to discontinue the flag stops at Hillhurst, P.Q.
- 81006 Mar. 11—Approving Plan S.D. 3381A in lieu of Plan S.D. 3381 showing protection as now relocated at the crossing of the C.N.R. and Cinq Chicots Road, Victoriaville, P.Q.
- 81007 Mar. 11—Approving certain general regulations of the Bell Telephone Company of Canada which prescribe conditions under which it shall furnish telephone service and equipment.
- 81008 Mar. 12—Dismissing the application of West Lorne Lumber Company Limited for establishment of joint rates on lumber to U.S. destinations via St. Thomas, Ont., and the Chesapeake & Ohio Railway.
- 81009 Mar. 12—Dismissing the application of the C.P.R. and C.N.R. for an order prohibiting publication of any book not sanctioned by the Board or the Railway Association of Canada that purports to interpret the Board's Uniform Code of Operating Rules.
- 81010 Mar. 12—Approving proposed location of storage tank, etc., of C.P.R. near their tracks at Nelson, B.C.
- 81011 Mar. 12—Authorizing the issuance of Water Licence to the Abitibi Navigation Company, Limited.
- 81012 Mar. 12—Approving proposed location of storage tanks, etc., of Reliance Petroleum Limited, at Muirkirk, Ont.
- 81013 Mar. 16—Authorizing the Bell Telephone Company to construct its lines of telephone upon and along certain highways in the Township of Chatham, Ontario.
- 81014 Mar. 16—Approving plan No. 480/90A9 in lieu of plan No. 480/90A6, showing proposed revisions to the interlocking plant at the crossing of the C.N.R. and C.P.R., near Neely, Sask.
- 81015 Mar. 16—Authorizing the Calgary Power Ltd. to construct its water service pipe across the right of way of the Interprovincial Pipe Line Company in the North half of the North East quarter of Section 31, Township 52, Range 23, West 4th Meridian, Alberta.

- 81016 Mar. 17—Restricting the speed of trains at the C.N.R. crossing at Birmingham Street, Hamilton, Ont.
- 81017 Mar. 17—Authorizing the issuance of water licence to the Yankcanuck Steamships Limited.
- 81018 Mar. 17—Permitting the removal of slow order at the C.N.R. crossing of Grays Road near Stoney Creek, Ont.
- 81019 Mar. 17—Approving proposed location of storage tanks, etc., of St. Thomas Metal Signs Ltd., near tracks of the N.Y.C. at St. Thomas, Ont.
- 81020 Mar. 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. tracks at St. James, Man.
- 81021 Mar. 17—Approving proposed location of storage tank, etc., of Imperial Oil Limited near tracks of the C.N.R. at Lacadena, Sask.
- 81022 Mar. 10—Ordering that the cost of relocating the company pipe line of Interprovincial Pipe Line Company where it crosses the highway between the southeast quarter of Section 32, Township 52, Range 23, West 4th Meridian, and the southwest quarter of Section 33, Township 52, Range 23, West 4th Meridian be borne and paid \$21,196.70 by the Alberta Department of Highways and \$16,654.54 by the Interprovincial Pipe Line Company.
- 81023 Mar. 17—Approving operation of C.P.R. trains over private siding of Dorval Builders Supplies Limited, Dorval, P.Q.
- 81024 Mar. 17—Restricting the speed of trains over C.N.R. crossing of Townsend Street, Sydney, N.S.
- 81025 Mar. 17—Approving Supplement No. 11 to Agreed Charge Tariff C.T.C. (AC) No. 14.
- 81026 Mar. 17—Permitting the removal of slow order at C.N.R. crossing of White Point Road, Liverpool, N.S.
- 81027 Mar. 17—Permitting the removal of slow order at C.N.R. crossing of Highway No. 4 near station at Afton, N.S.
- 81028 Mar. 17—Permitting the removal of slow order at C.P.R. crossing of Beardsley Road, Woodstock, N.B.
- 81029 Mar. 17—Approving relocation of the C.N.R. freight and passenger shelter at Coal Valley, Alta.
- 81030 Mar. 17—Authorizing the Interprovincial Pipe Line Company to construct a pipe line for the transportation of oil from a point on the international boundary between Canada and the United States located in the St. Clair River in the vicinity of the City of Sarnia to one or more points within or in the vicinity of the City of Sarnia.
- 81031 Mar. 17—Approving plan, profile and book of reference showing location of Interprovincial Pipe Line Company pipe line from a point on the International Boundary located in the St. Clair River in the vicinity of the City of Sarnia to a point in the City of Sarnia, etc.
- 81032 Mar. 18—Approving location of storage tanks, etc., of British American Oil Company Limited near C.N.R. tracks at Cannifton, Ont.
- 81033 Mar. 18—Extending the time within which protection is to be installed at Sydney and Louisburg Railway Company crossing of Victoria Road, Sydney, N.S.
- 81034 Mar. 18—Authorizing the R.M. of Whitemouth, Man., to construct its highway across the C.N.R. between Sections 33 and 34, Twp. 10, Rge. 12, E.P.M., Manitoba.
- 81035 Mar. 18—Authorizing the issuance of water licence to the Northern Transportation Company Limited.
- 81036 Mar. 18—Approving under the Maritime Freight Rates Act tolls published and tariffs filed by the C.N.R. under Section 3.
- 81037 Mar. 18—Authorizing the Canadian Northern Railway Company to construct a spur to serve Hood Motors Limited, Edmonton, Alta.
- 81038 Mar. 18—Authorizing the issuance of water licence to the McInnes Products Corporation Limited, Edmonton, Alta.
- 81039 Mar. 19—Authorizing the C.P.R. to close the crossing of its railway and the highway in the Northeast quarter of Section 35, Township 2, Range 20, West 2nd Meridian, Province of Saskatchewan.
- 81040 Mar. 19—Permitting the removal of slow order at C.N.R. and Front Street crossing, Orillia, Ont.
- 81041 Mar. 19—Authorizing the C.P.R. to construct a siding extension across the road allowance between Concessions 9 and 10, Township of North Dumfries, County of Waterloo, Ontario.
- 81042 Mar. 21—Permitting the removal of slow order at C.P.R. crossing near station at Strathmore, Que.
- 81043 Mar. 23—Authorizing the Grand Trunk Pacific Railway Company to construct a spur for Haliburton Oil Well Cementing Company Limited across 115th Avenue, Edmonton, Alta.
- 81044 Mar. 23—Authorizing the Imperial Oil Limited to construct a private road across the right of way of the Interprovincial Pipe Line Company, Alberta.

- 81045 Mar. 23—Rescinding Order No. 55998, dated June 4, 1938, in the matter of the application of the Town of Bowmanville, Ont., in regard to the construction of a highway crossing over the C.N.R. near station at Bowmanville, Ont.
- 81046 Mar. 23—Authorizing the B.C. Department of Public Works to construct the Trans-Canada Highway across the C.P.R. by means of an overhead bridge at mileage 26.68 Mountain Subdivision, British Columbia.
- 81047 Mar. 23—Authorizing the Town of Brampton to construct Centre Street across the C.N.R. at Brampton, Ont.
- 81048 Mar. 23—Permitting the removal of slow order at Michigan Central Railroad crossing near Cornell, Ont.
- 81049 Mar. 23—Approving proposed location of storage tanks, etc., of British American Oil Company Limited, near the tracks of the T. H. and B. Railway Company at Hamilton, Ont.
- 81050 Mar. 23—Setting down the application of Westcoast Transmission Company Limited, in regard to a natural gas pipe line from Brookmere to Princeton, B.C., for hearing at Ottawa on April 27, 1953.
- 81051 Mar. 23—Permitting the removal of slow order at C.N.R. crossing near station at Elk Point, Alta.
- 81052 Mar. 23—Approving proposed location of storage tanks, etc., of Duplate Canada Limited, near the tracks of the Oshawa Railway Company at Oshawa, Ont.
- 81053 Mar. 24—Authorizing the B.C. Telephone Company to publish and file tariff schedules putting into effect certain rates and charges.
- 81054 Mar. 24—Removing Mountain Differential on passenger car fares, etc.
- 81055 Mar. 24—Requiring the C.N.R. and C.P.R. to remove unjust discrimination in rates against shipments of lumber from the West Coast to Prairie points between Regina and Winnipeg inclusive.
- 81056 Mar. 24—Authorizing the City of Toronto to construct Emerson Avenue across the C.P.R.
- 81057 Mar. 24—Approving the operation of the C.N.R. trains over the private industrial siding serving W. C. Wells Construction Company Limited, Saskatoon, Sask.
- 81058 Mar. 24—Permitting the removal of slow order of C.N.R. crossing at Guilbeault Street, Longueuil, P.Q.
- 81059 Mar. 24—Authorizing the C.N.R. to change the lunar white marker lights to red markers on the C.P.R. home signals at the crossing of Montreal and Southern Counties Railway with the C.P.R. at Abbotsford, P.Q.
- 81060 Mar. 24—Recommending to the Governor in Council for sanction an agreement between the Burrard Inlet Tunnel and Bridge Company and the C.N.R. and The Canadian Northern Railway Company, in regard to the Second Narrows Bridge, Vancouver, B.C.
- 81061 Mar. 24—Authorizing the C.N.R. to make certain changes between Fraser River bridge and Port Mann Yard, B.C.
- 81062 Mar. 24—Restricting the speed of trains over the C.P.R. and Dewdney Avenue crossing, Regina, Sask.
- 81063 Mar. 25—Approving Service Station Contract between the Bell Telephone Company and The Hydro Electric Power Commission of Ontario.
- 81064 Mar. 25—Approving Service Station Contract between the Bell Telephone Company and the Karlsruhe Telephone Line.
- 81065 Mar. 25—Approving the clearances of proposed Chipper Bin proposed to be located on siding serving the Midway Lumber Mills Limited at Thessalon, Ont.
- 81066 Mar. 25—Approving signal appliances on electric cars formerly owned and operated by the Quebec Railway, Light and Power Company now owned by the C.N.R.
- 81067 Mar. 25—Permitting the removal of slow order at C.P.R. crossing near station at Flesherton, Ont.
- 81068 Mar. 25—Approving Appendix to Traffic Agreement between The Bell Telephone Company and the Northern Telephone Company Limited.
- 81069 Mar. 25—Approving proposed location of storage tanks, of McColl-Frontenac Oil Company near C.P.R. tracks at Kingston, Ont.
- 81070 Mar. 25—Restricting the speed of C.P.R. trains at Hinchey Avenue near Ottawa West Station, Ont.
- 81071 Mar. 25—Restricting the speed of C.P.R. trains at crossing of Rink Street, Peterborough, Ont.
- 81072 Mar. 25—Authorizing the C.P.R. to construct a private siding across Ashtonbee Road, etc., Township of Scarborough, Ontario.
- 81073 Mar. 25—Restricting the speed of trains at C.N.R. crossing at Kingsway and 118th Avenues, Edmonton, Alta.
- 81074 Mar. 25—Restricting the speed of trains at C.N.R. and Hunter Street, Hamilton, Ont.
- 81075 Mar. 25—Permitting the removal of slow order at Algoma Central and Hudson Bay Railway crossing of Wellington Street, Sault Ste. Marie, Ont.
- 81076 Mar. 25—Restricting the speed of trains at the crossing of the railway of the N.Y.C. and the junction of Simcoe and Ontario Avenues, Niagara Falls, Ont.

- 81077 Mar. 25—Permitting the removal of slow order at C.N.R. crossing of Courtley Street, Atherley, Ont.
- 81078 Mar. 26—Restricting the speed of trains at C.N.R. crossing at Cornhill Street, Moncton, N.B.
- 81079 Mar. 26—Authorizing the Ontario Department of Highways to remove the overhead bridge at mileage 2·0 Thessalon Subdivision, Ontario.
- 81080 Mar. 26—Authorizing the Township of Caledon to improve the sight lines in the northeast angle of the crossing of the highway and railway of the C.P.R. near Melville, Ontario.
- 81081 Mar. 26—Approving plan showing the proposed installation of C.P.R. Signal, near Caron, Sask.
- 81082 Mar. 26—Authorizing the Interprovincial Pipe Line Company to carry a second line of pipe across highways, etc., in certain designated locations.
- 81083 Mar. 26—In the matter of Agreed Charge between certain railway companies, steamship companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils, greases and petroleum products as approved under the Board's Order No. 80206, dated November 17, 1953.
- 81084 Mar. 26—Approving Standard Mileage Freight Tariff C.T.C. No. 248 of the Canada Steamship Lines, Limited.
- 81085 Mar. 26—Approving Standard Mileage Freight Tariff C.T.C. No. 51 of Northwest Steamships Limited.
- 81086 Mar. 26—Permitting the removal of slow order at C.N.R. crossing at mileage 44·77 Skeena Subdivision, British Columbia.
- 81087 Mar. 26—Amending Order No. 78180, dated January 28, 1952, and rescinding Order No. 80626, dated January 17, 1953.
- 81088 Mar. 26—Authorizing the C.P.R. to remove the station agent and appoint a caretaker agent at Lachevrotiere, P.Q.
- 81089 Mar. 26—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Sutton, Ont.
- 81090 Mar. 27—Approving proposed location of storage tanks, etc., of Canadian Oil Companies Limited, near C.N.R. tracks at Wadena, Sask.
- 81091 Mar. 27—Approving proposed location of storage tanks, etc., of Christie Brown and Company Limited, Township of Etobicoke, Ontario.
- 81092 Mar. 27—Authorizing the City of Windsor to construct Marentette Avenue across the Essex Terminal Railway, Windsor, Ont.
- 81093 Mar. 27—Approving Appendix to Traffic Agreement between the Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of Waterloo.
- 81094 Mar. 27—Authorizing the C.N.R. to operate over the subway at Dupont Street, Toronto, Ont.
- 81095 Mar. 27—Approving the operation of the C.N.R. and C.P.R. trains over the siding of the Toronto Harbour Commissioners serving the lands of Liquifuels Limited, Toronto, Ont.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

May 1, 1953

No. 3

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of Interprovincial Pipe Line Company, hereinafter called the "Applicant", under Sections 11 and 12 of The Pipe Lines Act, for an Order granting the Applicant leave to construct a pipe line consisting of one or more lines of pipe, for the transportation of oil from a point on the International Boundary between Canada and the United States of America located in the St. Clair River in the vicinity of the City of Sarnia, in the Province of Ontario, to one or more points within or in the vicinity of the said City of Sarnia, the said line being approximately six miles in length.

File No. 45371-2-42

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

Mr. R. B. BURGESS, for the Interprovincial Pipe Line Company.

Mr. R. T. GUEST, for the Chesapeake and Ohio Railway Company.

Mr. B. A. WILSON, for Ontario Hydro Electric Power Commission.

JUDGMENT

BY THE BOARD:

This is an application of the Interprovincial Pipe Line Company, hereinafter called the "Applicant", under Sections 11 and 12 of The Pipe Lines Act, for an Order granting the Applicant leave to construct a pipe line consisting of one or more lines of pipe, for the transportation of oil from a point on the International Boundary between Canada and the United States of America located in the St. Clair River in the vicinity of the City of Sarnia, in the Province of Ontario, to one or more points within or in the vicinity of the said City of Sarnia, the said line being approximately six miles in length.

Following a Hearing before the Board on the 24th day of February, 1953, the Board issued Order 80907 dated the same day giving directions to the Applicant to serve copies of the application and of the map filed therewith and Order 80907 on the Attorneys General of the Provinces of Ontario and Alberta; also that the Applicant mail not later than the 27th day of February, 1953, copies of the application, of the map filed with the application, and of Order 80907 upon the City of Sarnia, the County of Lambton, the Ontario Municipal Board, The Hydro Electric Power Commission of Ontario, The Bell Telephone Company of Canada, the Department of Public Works of Canada, the Department of Trade and Commerce of Canada, the Canadian National Railways and The Chesapeake & Ohio Railway Company.

The Applicant was also directed to cause to be inserted prior to the 4th day of March, 1953, a notice in the form attached to Order 80907 in four issues of a newspaper published in each of the following cities, namely: Sarnia, London and Toronto.

The Board has been satisfied that the directions in the above Order have been fully complied with.

No person or party appeared in opposition to the application.

Subsequent to the Hearing the Board received advice from the Clerk of the City of Sarnia to the effect that this Municipality has no objection to the pipe line being constructed in the manner following the route indicated on the plan filed with the application.

The Board is satisfied as to the financial responsibility of the Applicant, that there is a sufficiency of oil for the project and of the potential market therefor. The Board does not feel nor was there any evidence to show, that any public interest would be adversely affected by the granting of the application.

The Applicant having satisfied the Board as to all circumstances with respect to the application which appear to the Board to be relevant, the Board grants the application, and an Order will issue to that effect and will direct that the construction of the proposed pipe line is to be completed on or before the 31st day of October, 1954.

HUGH WARDROPE,
ARMAND SYLVESTRE.
H. B. CHASE.

OTTAWA, March 17, 1953.

ORDER No. 81030

In the matter of the application of Interprovincial Pipe Line Company, hereinafter called the "Applicant", under Sections 11 and 12 of The Pipe Lines Act, for an Order granting the Applicant leave to construct a pipe line consisting of one or more lines of pipe, for the transportation of oil from a point on the international boundary between Canada and the United States of America located in the St. Clair River in the vicinity of the City of Sarnia, in the Province of Ontario, to one or more points within or in the vicinity of the said City of Sarnia, the said line being approximately six miles in length:

File No. 45371-2-42

TUESDAY, the 17th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held in Ottawa on March 16, 1953, in the presence of Counsel for the Applicant and representatives of the Chesapeake and Ohio Railway Company and the Ontario Hydro Electric Power Commission—

It is ordered that leave be, and it is hereby, granted to the Interprovincial Pipe Line Company to construct a pipe line consisting of one or more lines of pipe, for the transportation of oil from a point on the international boundary between Canada and the United States of America located in the St. Clair River in the vicinity of the City of Sarnia, in the Province of Ontario, to one or more points within or in the vicinity of the said City of Sarnia, the said line being approximately six miles in length; the general location of the pipe line being as shown on the map filed with the Board under file No. 45371-2-42; the said pipe line to be constructed and completed on or before the 31st day of October, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81031

In the matter of the application of the Interprovincial Pipe Line Company, hereinafter called the "Applicant", for an Order approving the plan, profile and book of reference, being Drawing No. CAN. 1, on file with the Board under file No. 45371·2·42, showing the location of the Applicant's company pipe line from a point on the International Boundary between Canada and the United States of America, located in the St. Clair River, in the vicinity of the City of Sarnia, in the Province of Ontario, being opposite Lots 9 and 10 of the Riverview Subdivision of the City of Sarnia, to a point in the said City of Sarnia being described as Lot 12, Range IV, Township of Sarnia, County of Lambton, Province of Ontario, and from a point upon the said above described pipe line located approximately 118·4 feet west of the point of intersection of the center line of the said pipe line with the center line of the Chesapeake and Ohio Railway, to a point on the north boundary of the property owned by Canadian Oil Companies, Limited, in the Township of Moore, all as shown on the said plan:

File No. 45371·2·42

TUESDAY, the 17th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered

1. That the plan, profile and book of reference, being Drawing No. CAN. 1, on file with the Board under file No. 45371·2·42, showing the location of the Applicant's company pipe line from a point on the International Boundary between Canada and the United States of America, located in the St. Clair River, in the vicinity of the City of Sarnia, in the Province of Ontario, being opposite Lots 9 and 10 of the Riverview Subdivision of the City of Sarnia, to a point in the said City of Sarnia being described as Lot 12, Range IV, Township of Sarnia, County of Lambton, Province of Ontario, and from a point upon the said above described pipe line located approximately 118·4 feet west of the point of intersection of the center line of the said pipe line with the center line of the Chesapeake and Ohio Railway, to a point on the north boundary of the property owned by Canadian Oil Companies, Limited, in the Township of Moore, be, and it is hereby, approved.

2. That leave be, and it is hereby, granted to the Applicant to carry its company pipe line across all streets, roads, railways, irrigation ditches, drainage ditches, underground telegraph, telephone or electric power lines or pipe lines as shown on the said plan, in accordance with the Standard Regulations Regarding Company Pipe Line Crossings, made and adopted by General Order of the Board No. 732, dated the 29th day of September, 1949.

Assistant Chief Commissioner.
HUGH WARDROPE,

In the matter of the application of British Columbia Telephone Company, dated October 22, 1952, for approval of proposed increased rates and charges.

File No. 32560-35

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

FRANK M. MACPHERSON, *Commissioner.*

OVERTON A. MATTHEWS, *Commissioner.*

Appearances:

Hon. J. W. de B. FARRIS, Q.C., SHERWOOD LETT, Q.C., A. B. B. CARROTHERS, for the Applicant.

D. K. MACTAVISH, Q.C., for Anglo-Canadian Telephone Company.

ALFRED BULL, Q.C., for the Province of British Columbia and the following Cities, Districts, Municipalities and Villages in the said Province:

Cities: Alberni, Courtenay, Cumberland, Duncan, Grand Forks, Greenwood, Kamloops, Kaslo, Ladysmith, Merritt, Nanaimo, Nelson, New Westminster, North Vancouver, Port Alberni, Port Coquitlam, Port Moody, Rossland, Trail, Vancouver, Victoria;

Municipalities: Burnaby, Central Saanich, Coquitlam, Delta, Esquimalt, Fraser Mills, Kent, Langley, Maple Ridge, Matsqui, Mission, North Cowichan, North Vancouver, Oak Bay, Pitt Meadows, Richmond, Saanich, Sumas, Surrey, Tadnanac, West Vancouver;

Villages: Abbotsford, Castlegar, Comox, Harrison Hot Springs, Hope, Invermere, Kinnaird, Lake Cowichan, Mission City, New Denver, North Kamloops, Oliver, Osoyoos, Parksville, Princeton, Qualicum Beach, Salmo, Silverton, Squamish, Sidney.

H. NORMAN LIDSTER, Mayor F. H. Jackson, for City of New Westminster.

A. J. PATTON, for City of Victoria.

H. F. SALISBURY, for Central Burnaby Ratepayers and Citizens Association, and by endorsement the Municipalities of Burnaby and Delta, City of Kamloops, and Vancouver-New Westminster District Council of the Civil Service Federation of Canada.

S. ZLOTNIK, for Civic Reform Association.

J. R. ARNOLD, for himself.

JUDGMENT

KEARNEY, J., Chief Commissioner:

This is the final determination of the application dated October 22, 1952 of the British Columbia Telephone Company, hereinafter referred to as the "Company", for an Order under Section 375 and all other relevant sections of

the Railway Act approving the revisions of certain long distance message toll and exchange service tariffs including local pay-station services, as set forth in Schedules I and II attached to the application.

The revisions to the Company's tariffs set forth in Schedules I and II were as follows: (1) an increase in the charges for long distance toll calls, being an average increase, as estimated by the Company, of 12.2 per cent in the rates therefor; (2) an increase in the charges on the local exchange service and an increase from 5 cents to 10 cents per call for pay-station local message charges.

In its application the Company estimated that the increase in long distance message tolls in Schedule I would produce \$674,277 additional revenue in 1953 and that the increase in exchange service tariffs in Schedule II would produce an additional \$2,285,701, including an additional \$180,115 from the pay-station charge of 10 cents. The estimated total increase amounted to \$2,959,978. These estimates were revised at the Vancouver hearing and the revised figures will be referred to hereinafter.

In its application the Company also requested an interim hearing in order that a part of the proposed additional revenue might be recovered in the form of interim rates effective immediately and subject to final disposition at a later date.

The request for an interim hearing was granted and the hearing was held at Ottawa on November 24, 25, 26, 1952. Mr. Bull appeared on that occasion on behalf of the Province of British Columbia and the numerous cities, municipalities and villages for which he also appeared at the final hearing, the names of which are listed in the "Appearances", and on their behalf he opposed the application for interim increases.

At the conclusion of the evidence and argument on the application for interim increases, the Board reserved judgment. Subsequently, it gave written Judgment dated December 4, 1952, and issued Order No. 80334 of that same date. The Board authorized the full increases requested by the Company in long distance calls and pay-station local message charges, and a partial increase in exchange rates. The increased rates became effective on December 11, 1952 and will be hereinafter referred to in greater length.

The final hearing on this application commenced at Vancouver February 23, 1953, and continued there February 24, 25, 26, 27 and March 4, with argument by counsel on March 5 and 6. The Board also held a sitting at Victoria on March 2 in order that any parties from Vancouver Island who preferred to appear and be heard at Victoria, rather than at Vancouver, would have an opportunity to do so. However, no parties appeared at the Victoria sitting to make submissions.

THE APPLICATION

In its original application dated October 22, 1952, the Company filed Schedule IV showing the actual operating results of the Company for the year ended December 31, 1951 and estimated operating results for the year ended December 31, 1952 and for the year ending December 31, 1953. On the bases of rates then existing together with estimated operating expenses, dividends on then outstanding and proposed-to-be-issued stock for a full 12 months, and then applicable income taxes, a deficit of \$686,518 for 1953 was indicated. The Company requested the Board's approval of revised exchange, toll, and miscellaneous rates which would provide a level of revenues sufficient to meet the

estimated operating expenses, interest charges and dividends for the full year 1953 and provide a surplus of \$711,473. The increase in total operating revenues thereby requested amounted to \$2,959,978.

For the purposes of its interim application the Company reduced the aforementioned \$2,959,978 to \$2,451,021. In rendering decision thereon the Board allowed for increased exchange, toll and miscellaneous rates which, on a full year's basis, provides the Company with \$1,739,047 of the \$2,451,021 requested.

For the final hearing the Company provided actual operating results for the year ended December 31, 1952, and a revised estimate for the year ending December 31, 1953 at proposed rates. The revision indicates adjustments in certain revenue and expense items and results in a revised surplus of \$698,798. The requested rates are estimated to yield an increase in total operating revenues of \$2,964,701 rather than \$2,959,978 as above noted.

The increase in total operating revenues of \$2,964,701 was determined before the proposed budget change in corporate income taxes. Application of the new tax rate would result in a reduction in the additional revenue requirements of approximately \$355,000 and the Company filed a revised Schedule II, as Exhibit No. F-10, showing new rates which would result from giving to this reduction.

Respondents submitted exhibits which had as their basis the estimated total operating revenues of the Company for the year ending December 31, 1953 at interim rates. These exhibits showed that at interim rates, and corporate income taxes applicable for 1953, the Company would obtain sufficient revenues to meet its estimated operating expenses, interest deductions, and a full year's dividends on outstanding and proposed-to-be-issued common stock, and leave a balance for Surplus of \$264,481. This amount of Surplus is \$434,317 less than the \$698,798 claimed by the Company as being the minimum amount necessary for successful operations. Respondents contended that this additional amount, almost in its entirety, could be attained in 1953 under interim rates by eliminating consideration of dividends for the first quarter of 1953 on the proposed-to-be-issued stock and by capitalizing interest during construction.

DIVIDENDS

The Company has present annual dividend obligations totalling \$1,646,250. In its original application the Company proposed the issuance of additional common stock in 1953 which, on the basis of a full year's dividends, would add \$320,000 to the dividend requirements making a total amount of \$1,966,250. The Company has included this total dividend requirement in its application.

Respondents pointed out that as of the date of the hearing the Company had not issued the additional stock, and hence there need be no provision for dividend accrual during the first quarter of 1953. This would reduce the 1953 dividend requirement by \$80,000. Having regard to the above noted differences between Surplus of \$264,481 obtainable under interim rates and the \$698,798 contended for by the Company under proposed rates, Respondents would transfer this \$80,000 to Surplus, thereby effecting an increased Surplus of \$344,481. If interim rates were to remain in effect throughout 1953 and the Company issued the additional share capital at the end of the first quarter, then the contention of Respondents would logically follow. In fact if, as Respondents indicated might happen, the additional shares were not issued until the end of the second quarter a further \$80,000 would be added to Surplus.

There is no real conflict between the Company and Respondents on the question of the amount of dividends for 1953. The essential difference between the dividend submission of the Respondents and the Company is that Respondents, on the basis of present interim rates, have allowed for dividends that amount which would be required for the balance of the year 1953 assuming

share capital were issued at the end of the first quarter. While the estimates of the Company include a full year's dividends, they also include a full year's revenues at the applied for rates, and although the Company has not been required to pay dividends on the additional stock not yet issued, neither has it had the revenue benefit of the higher rates which are designed to provide for the said dividends and requested surplus. It has been a principle of the Board to determine the permissive level of earnings on the basis of a reconstructed year. We believe this to be a sound principle, fair to both the Company and subscribers, and it will be applied in determining this application.

INTEREST DURING CONSTRUCTION

The Company has, during the past several years, expanded its services considerably and this expansion is reflected in a sizeable and increasing amount of plant under construction as evidenced by the following figures:

<i>Year</i>	<i>Construction in Progress as at December 31</i>
1945	\$1,019,397
1946	1,607,511
1947	1,530,784
1948	3,862,312
1949	3,283,850
1950	4,091,365
1951	4,022,134
1952	4,107,245
1953	7,243,544 (est.)

When plant is under construction there is a cost to the Company of having its own or borrowed money invested in facilities which during this construction period are nonproductive of revenues. This actual and legitimate cost incurred during construction may be recovered in either of two ways: briefly, it may be charged as an expense to operations in the year in which it occurs, or it may be capitalized and charged off over a period of years.

The Company has followed a long established policy of annually charging all interest as an expense. To this the Respondents have objected. They have contended that adherence to this policy results in a level of expense higher in 1953 than would be occasioned if the Company capitalized this amount.

Counsel for the Company strenuously opposed this contention. It is the view of the Company that the cost of interest during construction should be recovered in the year in which incurred, and, that the reduction as proposed by Respondents would reduce the Company's permissive earnings without reducing its commitments.

Capitalizing interest during construction is a recognized practice, particularly in the field of public utilities. It is often a requirement of utility accounting in the United States and is observed by many utilities of Canada including some which come under the jurisdiction of this Board.

Capitalizing interest during construction does not actually relieve subscribers of some part of the legitimate expense of obtaining telephone service; nor does it prevent the Company from eventually obtaining reimbursements of this cost. On the other hand, charging interest during construction as an expense does not require subscribers to pay an expense which might otherwise be avoided; nor does it give the Company something to which it is not rightfully entitled. The difference lies in the timing of the recovery of the cost. When interest during construction is expensed the Company recovers this cost in the year in which incurred; when it is capitalized the Company recovers the cost over a series of years. When funds invested in construction work in progress

are small, or when relatively constant from year to year over a long period, there is no great difference to subscribers or the Company as between capitalizing the interest or charging it as an expense. However, when construction work in progress becomes a substantial item in the Company's undertakings, when this annual program assumes a sizeable relationship to total plant, and all at a time when the Company is obliged to seek increased revenues to meet rising costs, the Board in its determination of just and reasonable rates must consider carefully alternative means by which the Company may recover this cost.

Respondents have contended that if the Board accepts the theory of capitalizing interest during construction there would result a present saving of \$326,086 which if added to Surplus, and together with other adjustments considered elsewhere herein, would provide the Company a surplus of \$670,567 under the interim rates for 1953. The amount of \$326,086 was computed by Respondents on the basis of average funds invested in construction in progress during 1953 estimated at \$5,675,394 at an average current cost of money of 6 per cent, less an allowance thereon of 4.24 per cent for depreciation.

The Board has obtained information respecting the experience of other telephone companies in this matter, and the manner in which the theory of capitalizing is applied. We find that each item entering into Construction Account is usually considered by the engineering and plant forces, when the estimate covering that project is in the course of preparation, to determine the proportion to be capitalized. Furthermore, it is common practice that certain types of construction and plant classifications are specifically excluded from the determination of projects applicable to the accrual of interest; included therein are projects which will be completed within a short period of time, projects which become dormant or suspended for a period of several months, projects covering the purchase of real estate and rights-of-way, and projects which do not exceed a minimum amount.

It will be readily apparent that the application of these factors will produce an amount, properly subject to capitalization, considerably less than the amount estimated by Respondents. We find on our own investigation and study that an equitable application of the theory advanced by Respondents would result in an adjustment for rate-making purposes of approximately \$110,000 and will take this amount into account in determining allowable rates.

SURPLUS

The Company has requested approval of a level of rates which, over a full year and in the absence of future change in expenses, is estimated to provide a Surplus of \$698,798.

In opposing provision for this amount of Surplus, Respondents have advanced two contentions.

First, that if adjustment is made for proposed applicable corporate income taxes, for the transference of \$80,000 from dividends to Surplus, and for a tax free capitalization of interest during construction of the amount of \$326,086, then the interim rates are sufficient to provide a Surplus of \$670,567; which amount is but \$28,231 less than the amount requested by the Company. These adjustments are dealt with elsewhere herein. Second, that the amount of Surplus asked for by the Company is more than is necessary; and if the Board were to make the above adjustments and were to allow as a reasonable Surplus either \$300,000 or \$350,000, the interim rates could be reduced by \$726,602 or \$628,563 respectively.

Respondents have not questioned the desirability of the Company to earn a Surplus. Indeed, Mr. Ross stated, "there is no question that the Company should be entitled to earn under efficient and economic management, a reasonable surplus over and above its operating expenses, depreciation, the carrying charges on its debt and dividends on its outstanding capital stock." (Transcript p. 3829).

Again in reference to the amount of Surplus, Mr. Ross stated, "... the surplus should be sufficiently large to cover the degrees of future risk or the margins of error in forecasts of business activity so as to inspire confidence of financial stability and continuance of dividend in the prospective investor. The surplus should therefore be at least large enough for this." (Transcript p. 3831).

It has been suggested that the amount which the Board might reasonably allow as Surplus should be very much less than the amount of \$698,798 requested, because the Company has never actually earned a large Surplus. In four of the past five years the Company operated at a deficit; for thirteen years prior thereto its average annual surplus approximated \$60,000. In this regard we think it would be acknowledged that, amongst other things, the Company has grown greatly during the past few years and this growth it continuing, that it is now becoming a publicly held company, and that it should have an earning's basis which will enable it to compete in today's capital market on reasonably equal terms. These all make for a larger surplus requirement today.

The Judgment of September 21, 1950 on this Company's application for increased rates indicates that on the facts of the matter then existing the Board found an allowable Surplus of \$440,201 to be reasonable. Adjusting this amount to reflect the position and condition of the Company today, we are of the opinion that the amount now asked is relatively no more, and may well be less, than the amount then approved.

It has also been suggested that because of the impact of high corporate taxes, whereby for each dollar of surplus accruing to the Company subscribers must contribute almost another dollar for taxes, the creation of a large surplus is out of place and would only be attained by placing an undue burden upon subscribers. The Board is well aware of the impact of corporate taxes and the effect upon those who must pay the rates. This factor has not been overlooked in this case, but it is not a reason for refusing the Company a level of permissive earnings which the Board finds to be justified.

Inclusion in the financial requirements of a specific amount for Surplus does not necessarily mean that the Company will actually realize this amount. On the evidence before us one might well conclude that the surplus resulting from this year's operations of the Company will fall short of what is herein provided for. While the realization of some amount of surplus this year will improve the Company's accumulated earned surplus position, and while we recognize that accumulated surplus should be sufficient to provide a reasonable margin of financial protection, we believe that the amount of accumulated surplus is a matter which the Board must consider from time to time.

We have studied the request to include within the requirements of the Company an item for Surplus of \$698,798 and have tested this amount against the amounts included for other utilities within the Board's jurisdiction. Having regard to the capital structure of the Company, the results of its operations over the past several years, and the necessity of maintaining, if not improving, the Company's financial standing, and all other relevant considerations, we are satisfied that the permissive amount asked for by the Company is not unreasonable and should be allowed as an item for rate-making.

CONTRACTS

The Company in the conduct of its business has seen fit to enter into three contracts—a supply Contract, a Service Contract, and a Directory Contract. These contracts were discussed in our Judgment dated September 21, 1950, but the Board is of the opinion that in the interests of all concerned these should now be thoroughly aired.

The books, records and accounts of the Company were made available to Clarkson, Gordon and Company, a large and highly regarded firm of Chartered Accountants retained in connection with this application by the Province of

British Columbia and the other parties for whom Mr. Bull appeared. All information sought by that firm, including statements and information in respect of affiliated companies with which the Applicant does business, has been readily furnished. That firm was also retained by the Province of British Columbia in connection with the previous applications of the Company in 1949 and 1951 and the accounts of the Company were investigated by the firm on those occasions also. There can be no doubt, therefore, that the Company's conduct and accounts have been under close and critical examination during the past several years by Clarkson, Gordon and Company.

We will have reason to later refer to the action of the Company in co-operating with and voluntarily making its records available to Clarkson, Gordon and Company who were probing into its affairs, and we commend that firm for the helpful examination which it made and for the analysis and evidence given by Mr. Ross, the partner in charge of the firm's Vancouver office.

(1) *The Supply Contract*

The Company has a Supply Agreement with Canadian (B.C.) Telephone and Supplies Limited, a subsidiary of Anglo-Canadian Telephone Company. A copy of the Agreement, effective January 1, 1951 with an amendment effective April 1, 1951, was filed as Exhibit F-15.

The contract provides for services by the Supply Company which, generally, are the purchase of materials and supplies, the repair and rehabilitation of equipment, the assembly and installation of switchboard and central office equipment, and the storage and warehousing of telephone equipment.

The applicant is the principal customer of the Supply Company but the latter also does telephone installation work for the City of Edmonton, Alberta Government Telephones, Saskatchewan Government Telephones, Manitoba Telephone System and other telephone systems in various parts of Canada.

The evidence of the Company is that if it were to perform within its own organization the work called for under the Supply Contract, much of which is of a highly specialized nature and requires highly skilled personnel, the over-all cost would exceed the amount being paid under the existing contract. Mr. Bull did not dispute the advantages to the Company in this day and age of a supply contract.

The Board thinks that it is advantageous to the Company to have strong connections which will enable it to obtain needed equipment and supplies as and when required, particularly under the "sellers market" conditions which have prevailed during recent years and still prevail. The Supply Contract helps to put the Company in that position. However, having regard to the affiliated relationship of the two companies, it is essential that their dealings, one with the other, be fully disclosed to the Board and that the prices paid by the Telephone Company to the Supply Company be not more than are reasonable for the services rendered.

As previously stated herein, the Company has opened its books, records and accounts to the Respondents' chartered accountants and to the Board and has furnished all information requested of it, including information concerning its dealings with the Supply Company.

In its Judgment dated September 21, 1950 the Board disallowed as an expense for rate-making purposes an amount of \$117,000 under the Supply Contract then in effect. Subsequently, the charge of 3 per cent on aggregate annual purchases of materials, telephone apparatus, supplies and equipment (with certain exceptions) in excess of \$1,000,000, provided in the previous contract above referred to, was reduced to 1½ per cent by mutual agreement of the parties. This reduction resulted, according to the evidence of the Company, in a reduction of the amount which would have been payable if the 3 per cent had not been reduced to 1½ per cent of \$184,299 and \$253,338 in 1951 and 1952 respectively.

It was also established that the Supply Company gives more favourable terms to the Applicant than it does to any of its other customers.

Mr. Zlotnik, who presented a brief on behalf of the Civic Reform Association, complained that the Company purchases large quantities of telephone equipment and supplies from an affiliated company at what he described as non-competitive or monopolistic prices. Whether or not a monopoly exists in the field of manufacture, distribution or sale of telephone equipment and supplies is not a matter for determination by this Board nor is a decision on that question necessary for the purposes of this case. Moreover, even if there is such a monopoly, the Board has no reason to conclude that the monopoly would cease to exist or be changed by a refusal on the part of the Company to enter into the Service and Supply Contracts or either of them; or that the Company could, by refusing to enter into these contracts and seeking to obtain necessary service and supplies by other arrangements or from other sources, obtain such services and supplies at less cost on the whole than it does under the existing contracts.

We have carefully considered the Supply Contract and the evidence and exhibits relating thereto and we are satisfied that the prices paid by the Company under that contract are not greater than reasonable and should on the whole be allowed as legitimate expenses.

(2) *The Service Contract*

In 1933 a contract was entered into between the British Columbia Telephone Company and Anglo-Canadian Telephone Company under which, for payment of $1\frac{1}{2}$ per cent of its gross operating revenue, the British Columbia Telephone Company would be able to obtain valuable patent rights and expert services. In subsequent years the basis of payment was reduced to 1 per cent, and now stands at $\frac{3}{4}$ of 1 per cent. By the terms of the contract the British Columbia Telephone Company is entitled to draw upon the entire service facilities of the Gary Group organization including its laboratory, research and development organization.

Evidence has been given before the Board that there are 63 people in the service organization, including 6 executive consultants. The executives and their assistants stand ready to advise and help the Company in problems of engineering, traffic, public relations, labour relations and corporate and commercial matters. It has been estimated by Anglo-Canadian Telephone Company that the cost of this service organization approximates \$622,000 annually, and approximately \$235,000 of this cost might be allocated to the British Columbia Telephone Company. In addition thereto it costs approximately \$450,000 per year to operate the laboratory which has some 75 engineers, technical men and patent experts.

For the right to obtain services and advice under the terms of the contract, the British Columbia Telephone Company has paid in recent years the following amounts: 1948—\$181,000; 1949—\$129,000; 1950—\$152,000; 1951—\$187,000; 1952—\$163,000.

The Company submitted, as Exhibit F-16, examples of the services which have been rendered to it under the terms of the Service Contract. While it is quite impossible to place a precise dollar valuation on these services, yet one can conclude that they do represent real and substantial services received. In this connection I might refer to the Depreciation Study which the Board in its 1950 Judgment directed the Company to undertake. This study was prepared by an outside engineering firm because the service organization does not have men on its staff who specialize in this type of work. Although there seemed to be some misunderstanding of it during the hearing, it has now been determined that the cost of the study, which we know would not be insignificant, will not be paid for by the Company as it was adjudged to fall within the terms of the Service Contract.

The Service Contract was not seriously challenged and we find no valid reason to alter the Board's previous findings with respect thereto and consider that the payment by the Company constitutes a reasonable expense in the operations of the Company and should be allowed for rate-making purposes.

(3) *Directory Contract*

The Company has a Directory Contract with an affiliated company, Dominion Directory Company Limited, the capital stock of which is owned by Anglo-Canadian Telephone Company. The contract was entered into on January 2, 1937 and has continued in effect ever since that date.

The Directory Company's principal business is the soliciting and writing-up of contracts for telephone directory advertising for the Applicant and four other small telephone companies, three of which are affiliated with the Directory Company. Its principal business is with the Applicant. The Directory Company receives from the Applicant a commission of 35 per cent of the gross paid directory advertising sales and pays out of that commission its sales, clerical, administrative and other expenses. The Directory Company has about 30 salesmen, clerks, artists and stenographers employed practically full time. At the hearing it disclosed its net profit before taxes and balance of income after taxes during recent years; net profit after taxes was \$60,531 in 1952. Prior to the making of the Directory Contract, the soliciting of directory advertising was done by the Applicant's own staff operating as a small department of the Company.

The Applicant considers that the Directory Contract is beneficial both to the Applicant and to telephone subscribers. It was established that the Applicant's net revenues from directory advertising, after paying the 35 per cent commission to the Directory Company, was considerably in excess of the cost of printing and publishing the directories.

The Respondents contended that the Company should by means of its own staff carry on the work that it has "farmed out" to the Directory Company and have for itself the profits which the Directory Company makes under the contract. A substantially similar contention was put forward by the Respondents at the 1950 hearing and disposed of in the Judgment of September 21, 1950, but it is again put forward and must be considered in the light of the presentation now made and the circumstances now prevailing. The largest telephone company under the Board's jurisdiction, The Bell Telephone Company of Canada, does its own soliciting of directory advertising except in a few instances where advertising agencies are involved and receive a commission. However, the Board has knowledge that certain telephone companies in the United States have contracts somewhat similar to the Directory Contract and that the commission payable thereunder runs from 25 per cent to 35 per cent.

I have carefully considered the opinions of the Company's officers that the directory advertising arrangements are satisfactory and beneficial to the Company and telephone subscribers. I am not convinced, however, that the Company could not have developed within its own organization an efficient department to deal with directory advertising. If it had done so, I see no reason why a considerable part of the profits now being made and retained by the Directory Company, would not be available to the Applicant.

Directory advertising of the Company has multiplied since the Directory Company commenced doing the work. In 1937 gross advertising revenue was \$88,700; in 1952 it was \$804,410. One obvious reason for the increase is that the public has become accustomed to the Yellow Pages and realizes their value and convenience. I also feel sure that many advertisers repeat their advertisements without having to be urged to do so. This factor should have a bearing on the amount of commission that the Applicant should pay to the Directory

Company. The volume of directory advertising is also a factor, for it is reasonable that the rate of commission need not be as large where the volume is great as where the volume is small.

Having regard to the greatly increased volume of directory advertising and other relevant factors, we concluded that for rate-making purposes a commission of 30 per cent, instead of 35 per cent, would be appropriate. We had doubts, however, as to our jurisdiction in respect of directory advertising. We informed the Company as to our views on the amount being paid to the Directory Company, and the Company subsequently advised us that in deference to our views the two companies concerned had agreed to reduce the commission to 30 per cent on all advertising contracts sold in the Company's directories by the Directory Company after January 1, 1953. The effect of this reduction based on gross Directory Advertising revenue for 1952 will be to benefit the telephone company in round figures to the extent of \$40,000 per annum.

INSTRUMENT CHARGES

Subsequent to the Board's hearings on the application of the Company dated June 29, 1949, the Central Burnaby Ratepayers' and Citizens Association, supported by the Municipality, submitted written representations requesting that a discount of 25 cents per month be granted to subscribers not having the hand (monophone) instruments, and that such discount be continued in effect until all the old type instruments were replaced. The Board, in its Judgment dated September 21, 1950, dealt with this proposal and for the reasons therein stated, concluded that it would not be proper to approve the discount requested.

A brief on the same subject was presented to, and considered by, the Board during the 1951 hearings.

In the course of this hearing Mr. Salisbury, representing the parties as noted in the "Appearances", submitted a carefully considered brief requesting a monthly discount of 50 cents for subscribers having the old type instruments, and proposing that such subscribers should not be permitted to continue the use of such instruments at this discount once the Company is able to effect replacement. It is contended that the old style instrument renders inferior service, and, on the basis of fairness and equity, this difference in the quality of service should be reflected in a lower rate. It is also contended, on the basis of consistency, that as the Board recognizes a difference in quality of service as between upper and lower berths, in railway sleeping cars and which have a differential in their charge, so must the Board recognize the same principle with respect to old type telephones and monophones. It was stated in the brief that the granting of the 50-cent monthly discount could be offset by increasing other general subscribers' rates by 9.8 cents per month; but that on the basis of the present value of future income, on the assumptions made in the brief, the net cost would approximate 1 cent per month.

In reply to these contentions the Company denied that the older type instruments are giving inferior service and drew attention to the fact that present plans call for the replacing of the older type telephones with monophones at a minimum of 20,000 per year. At this rate entire replacement will be completed during 1955.

While it may be that something of a personal inconvenience is occasioned subscribers who have the older type telephones, this is a consequence of the type of instrument rather than the quality of service.

With respect to the comparison drawn with upper and lower berths, we do not find that the Board would be inconsistent in not approving the discount as requested. The difference in charges as between upper and lower berths reflects a difference in the quality of accommodation which a railway stands ready to provide. The Telephone Company on the other hand does not stand

ready to provide subscribers with either of two types of instruments; that two types exist today is solely the result of the Company being in the process of changing over to monophones.

On the basis of the Company's plans for replacing old type telephones with monophones, we find that for 1953 the revenue loss of allowing a 50-cent monthly discount would approximate \$292,000; and to recover this amount from other subscribers would mean an increase in their individual monthly rate of 10 cents. For 1954 the revenue loss would approximate \$157,000 and would require an increase of 5 cents per month. However, there is not only the direct loss in revenue involved, albeit it would be recovered through higher rates to other subscribers, there would certainly be required a complicated system of records together with special billing arrangements and more frequent changes in rates. These would certainly represent considerable increased expense to the Company and would have to be paid by subscribers as a whole.

Furthermore, to try and resolve in terms of differing rates the inconvenience experienced by users of the older type instrument compared to the monophone would not end the matter; it would only lay the foundation for similar contention when the present monophone is replaced by some more modern and convenient instrument. I was favourably impressed by the fair and efficient manner in which Mr. Salisbury presented his case. If we could devise some equitable and non-perpetuating method of compensating users of the older type telephone for the inconvenience therein entailed we would accede to Mr. Salisbury's request, but we are convinced that for us to attempt to do so would create more dissatisfaction than it would remedy.

We are of the opinion that the Company, in making a determined effort to replace the old type instruments, is providing the most effective solution to this transitional problem and under the circumstances we do not find that the requested discount should be approved.

THE "TWO-PARTY" INCREASE

The Board's attention was drawn to two cases where the percentage increases proposed by the Company resulted in the same monetary increase for two-party residence service as for individual residence service.

While it is true that a comparison of the proposed rate scale with that existing prior to the Board's interim Order shows equal increases in these two cases, yet the proposed scale is not an extension of the previous scale but is a new scale developed to take into account certain adjustments which the Company believes to be necessary. Any arbitrary adjustment for these two cases would disturb the pattern followed for other groups and would necessitate making similar adjustments in all two-party rates with a consequent loss in revenue to the Company. Such reduction in revenue would have to be recouped from other services, and this would further destroy the pattern of rates graduated by groups and the relationship between classes of service.

As we are of the opinion that the proposed basic scale and the relationship established between the various classes of service are equitable to all groups of subscribers, we do not propose an arbitrary alteration to the scale.

FINDINGS

The interim Order No. 80334 of December 4, 1952 gave approval to the full amount of increase in long distance message toll service proposed by the Company in Schedule I, and the full amount of increase proposed by the Company in Items 160, 165, 175 and 185 of Schedule II. I would now give final approval to such increases.

Having considered carefully all the evidence and submissions placed before us, together with further inquiry made by the Board, I find that the balance of revenues required to meet the needs of the Company would be provided as hereafter set forth, and I would approve such increases and they shall supersede those allowed in the interim Order, *supra*:

- (1) 88 per cent of the total increased revenue proposed to be obtained by the Company in Item 70 of Schedule II revised. The Company to maintain, in so far as possible, the relationships between groups and classes of service as therein proposed.
- (2) The increases proposed by the Company for all other Items of Schedule II not specifically mentioned herein:

*When the rate or
charge proposed in
Schedule II is:*

\$

.05—1.20
1.25—3.65
3.70—6.15
6.20—8.60

*The Reduction
to be:*

\$

no change
.05
.10
.15

*exchange
rates*

Where the proposed rates in Schedule II are in excess of \$8.60 the same mathematical formula to be followed.

- (3) Disposition of fractions: Fractions of less than two and one-half cents to be dropped; fractions of two and one-half cents and greater to be brought to the next higher five cents.

The Company may publish and file revised tariff schedules adjusting rates and charges in such tariffs to the extent hereby allowed. I am of the opinion that these approved rates constitute an equitable manner of obtaining the necessary increased revenues and are fair and reasonable rates and charges for the services.

I would allow tariffs to be filed to implement the provisions of this finding on not less than three days' notice, and the Board's tariff requirements in General Order No. 658 as to the indications of changes in tariffs by the use of symbols may be waived.

JOHN D. KEARNEY.

MARCH 24, 1953.

I concur:

FRANK M. MACPHERSON.

I concur:

O. A. MATTHEWS.

ORDER No. 81053

In the matter of the application of the British Columbia Telephone Company for an Order under Section 375 and all other relevant Sections of the Railway Act, authorizing and approving the revisions of certain Long Distance Message Tolls and Exchange Service Tariffs set forth in Schedules I and II respectively, attached to the application.

File No. 32560-35

TUESDAY, the 24th day of March, A.D. 1953.

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at sittings of the Board held in the City of Vancouver, British Columbia, on the 23rd, 24th, 25th, 26th, and 27th days of February, 1953, and the 4th, 5th and 6th days of March, 1953, and in the City of Victoria, British Columbia, on the 2nd day of March, 1953, in the presence of Counsel and representatives of the Applicant, the Province of British Columbia, the Cities of Vancouver, Victoria, New Westminster and associated cities, municipalities and villages, the Central Burnaby Ratepayers and Citizens Association and others—

It is ordered that the Applicant may publish and file tariff schedules putting into effect rates and charges in accordance with the provisions of the Judgment herein dated the 24th day of March, 1953.

And it is further ordered that the said tariff schedules hereby authorized may be made effective upon not less than three days' notice without observing the provisions of Rule 6 of General Order No. 658.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 81105

In the matter of the application of the British Columbia Telephone Company, hereinafter called the "Applicant Company", under the provisions of Chapter 66 of the Statutes of Canada 6-7 Geo. V, as amended by Chapter 36 of 4-5 Geo. VI and Chapter 86 of 11 Geo. VI, for an order approving the terms and conditions of the issue and sale or other disposition of 160,000 ordinary shares of the capital stock of the Applicant Company:

File No. 29885-13

WEDNESDAY, the 1st day of April, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at the sittings of the Board held at Ottawa on the 1st day of April, 1953, in the presence of Counsel for the Applicant Company, no one appearing in opposition; and upon hearing what was alleged; and upon reading what has been filed in support of the application, public notice of such application having been published in the Canada Gazette, and it appearing that the proposed issue is necessary for the purpose of financing the capital requirements of the Applicant Company and to meet existing obligations and commitments—

It is ordered

1. That approval be, and it is hereby, given to the issue and sale of not more than 160,000 ordinary shares of the capital stock of the Applicant Company as and when the Directors of the Applicant Company may, in their discretion, decide, at a price not less than Twenty-nine Dollars per share, upon the following conditions:

- (a) That such ordinary shares be first offered to the Applicant Company's existing ordinary shareholders in the ratio of one share for each three shares held by them on a date of record to be determined by the Applicant Company's Board of Directors for the purpose of such issue; and
- (b) That any such ordinary shares not taken up by the Applicant Company's existing ordinary shareholders may be disposed of in such manner as the Directors may determine at or above the aforesaid price of Twenty-nine Dollars per share.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81174

In the matter of the application of the Governor and Company of Adventurers of England Trading into Hudson's Bay (commonly known as "Hudson's Bay Company"), hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-34

MONDAY, the 13th day of April, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 271 be issued to the Applicant licensing for the period of one year commencing February 9, 1953, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. Between (a) Tuktuk, N.W.T.; (b) points on Great Slave Lake, east of and including Rocher River and François Bay, N.W.T., except Fort Reliance, N.W.T.; (c) points on Lake Athabaska east of and including Camself Portage and Fond du Lac, Sask., except Bushell, Black Bay, Goldfields and Stoney Rapids, Sask. And all points within the watershed of the Mackenzie River but not including Liard, Nelson and Bear Rivers.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>M.V. Watson Lake</i>	175563	26
<i>M.V. Hearne Lake</i>	156578	95
<i>M.V. Pelly Lake</i>	156566	77
<i>M.V. Slave River</i>	152590	50
<i>M.V. Pelican Rapids</i>	175564	164
<i>H.B.C. Barge No. 106</i>	193281	105
<i>H.B.C. Barge No. 208</i>	175553	202
<i>H.B.C. Barge No. 209</i>	193282	365
<i>H.B.C. Barge No. 210</i>	193283	365
<i>H.B.C. Barge No. 211</i>	175554	296
<i>H.B.C. Barge No. 212</i>	175555	296
<i>H.B.C. Barge No. 254</i>	175556	216
<i>H.B.C. Barge No. 255</i>	175557	216
<i>H.B.C. Barge No. 256</i>	175558	216
<i>H.B.C. Barge No. 257</i>	175559	216
<i>H.B.C. Barge No. 258</i>	175560	420
<i>H.B.C. Barge No. 259</i>	175561	420

2. On Nelson and Liard Rivers, situated between Fort Nelson, B.C., and Fort Simpson, N.W.T., inclusive.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>M.B. Stuart Lake</i>	175562	15
<i>H.B.C. Scow No. 1</i>	Not Registered	40
<i>H.B.C. Scow No. 2</i>	Not Registered	40
<i>H.B.C. Scow No. 4</i>	Not Registered	15
<i>H.B.C. Scow No. 5</i>	Not Registered	40

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81187

In the matter of the application of the Canadian Freight Association, dated March 11, 1953, for approval of Supplement No. 3, to Agreed Charge tariff C.T.C. (AC) No. 32:

File No. 40994-23

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge tariff C.T.C. (AC) No. 32 be, and it is hereby, approved, and that the date from which the said Supplement No. 3 shall become operative is hereby fixed as March 12, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81188

In the matter of the application of the Canadian Freight Association, dated March 5, 1953, for approval of Supplement No. 6 to Agreed Charge Tariff C.T.C. (AC) No. 46:

File No. 40994-35

WEDNESDAY, the 15th day of April, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 6 to Agreed Charge tariff C.T.C. (AC) No. 46 be, and it is hereby, approved, and that the date from which the said Supplement No. 6 shall become operative is hereby fixed as March 9, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
FEBRUARY, 1953

Railway Accidents	180	Killed 8	Injured 183
Level Crossing Accidents	36	Killed 12	Injured 78
Totals.....	216	Killed 20	Injured 261

		<i>Killed</i>	<i>Injured</i>
Passengers	—	—	39
Employees	2	2	161
Others	18	18	61
Totals.....	20	20	261

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: N.S. 70452.
1	—	3	Automobile ran into side of train. Licence: N.S. 86573.
1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-30740.

NEW BRUNSWICK

1	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.B. C-13532.
---	---	---	---

QUEBEC

1	—	1	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-11805.
1	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 106293.
1	2	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Vt. 36271.
1	—	1	Auto truck ran into side of train. Licence: Que. F-54429.
1	—	3	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 195-974.
1	—	2	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-13110.
1	2	27	Trailer Truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-13924. Budd Car was derailed.
1	—	1	Trailer truck drove onto crossing in front of approaching train and was struck. Licence: Que. L-1253.

ONTARIO

1	—	4	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 9196-J.
1	—	1	Automobile ran into side of train. Licence: P.E.I. 14186.
1	—	1	Automobile ran into side of train. Licence: Ont. 56-H-71.
1	—	2	Automobile ran into side of train. Licence: Ont. 1927-Y.
1	1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 45095-C.
1	—	2	School bus drove onto crossing in front of approaching train and was struck. Licence: Ont. B-51589.
1	2	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 94-W-67.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. J-6062.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. FP-660.
1	—	1	Automobile ran into side of train. Licence: Ont. 53-E-3.
1	—	3	Automobile ran into side of cars being pushed over crossing. Licence: Ont. CY-822.
1	—	3	Automobile ran into side of train. Licence: Ont. B-26767.

MANITOBA

<i>Accidents</i>	<i>K.</i>	<i>I.</i>	
1	1	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. T-8865.
1	—	2	Automobile ran into side of train. Licence: Man. 9-N-923.

SASKATCHEWAN

1	—	1	Automobile ran into side of train. Licence: Sask. 52030.
1	—	1	Automobile ran into side of train. Licence: Sask. 8533.
1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Sask. 119280.

ALBERTA

1	—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Alta. 24-B-49.
1	—	1	Road Grader drove onto crossing in front of approaching train and was struck.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. CV-37465.
1	—	1	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Alta. X-84849.

BRITISH COLUMBIA

1	—	2	Automobile ran into side of train. Licence not given.
1	—	2	Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. P-4-484.

Of the 36 accidents at highway crossings, 28 occurred at unprotected crossings, and 8 at protected crossings. Fifteen occurred after sunrise and twenty-one after sunset.
OTTAWA, Ont., March 27, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81096 Mar. 30—Authorizing the C.P.R. to close the station at Klock, in the Province of Ontario.
- 81097 Mar. 30—Authorizing the Trans-Northern Pipe Line Company to construct its company pipe line in Lottridge's Creek, City of Hamilton, Ontario.
- 81098 Mar. 30—Permitting the removal of slow order at C.P.R. crossing in the Town of Milverton, Ontario.
- 81099 Mar. 30—Approving plan showing the location of Trans-Mountain Oil Pipe Line Co., pipe line within the Municipality of Burnaby, Province of British Columbia.
- 81100 Mar. 31—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Lanigan Subdivision, Province of Saskatchewan.
- 81101 Mar. 31—Authorizing the Manitoba Department of Public Works to widen and re-align Provincial Highway No. 3, C.P.R. at mileage 72.75 Estevan Subdivision, Province of Manitoba.
- 81102 Mar. 31—Authorizing the Saskatchewan Department of Highways and Transportation to widen the highway where it crosses the C.P.R. at mileage 66.25 Shamrock Subdivision, Province of Saskatchewan.
- 81103 Mar. 31—Authorizing the C.P.R. to use the wharf extension on Water Lot in Victoria Harbour, Province of British Columbia.
- 81104 Apr. 1—Authorizing the C.P.R. to make changes at the interlocking at Foster, Province of Quebec.
- 81105 Apr. 1—Approving issue by the British Columbia Telephone Company, 160,000 ordinary shares of the capital stock at \$29.00 per share.
- 81106 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Indian Head Subdivision, Province of Saskatchewan.
- 81107 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Tyvan Subdivision, Province of Saskatchewan.
- 81108 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Portal Subdivision, Province of Saskatchewan.
- 81109 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Kisbey Subdivision, Province of Saskatchewan.
- 81110 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Bassano Subdivision, Province of Alberta.
- 81111 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Notukey Subdivision, Province of Saskatchewan.
- 81112 Apr. 1—Amending Order No. 80514, dated December 30, 1952, which authorized the C.N.R. to take possession of certain tracks and facilities of National Harbours Board, Great Northern Railway, C.P.R. and others.
- 81113 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Maple Creek Subdivision, Province of Saskatchewan.
- 81114 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Altawan Subdivision, Province of Saskatchewan.
- 81115 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Suffield Subdivision, Province of Alberta.
- 81116 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Leduc Subdivision, Province of Alberta.
- 81117 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Langdon Subdivision, Province of Alberta.
- 81118 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Strathmore Subdivision, Province of Alberta.
- 81119 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Irricana Subdivision, Province of Alberta.
- 81120 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Brooks Subdivision, Province of Alberta.
- 81121 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Rosemary Subdivision, Province of Alberta.
- 81122 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Pennant Subdivision, Province of Saskatchewan.
- 81123 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Burstall Subdivision, Province of Saskatchewan.
- 81124 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Hatton Subdivision, Province of Saskatchewan.
- 81125 Apr. 1—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Hoadley Subdivision, Province of Alberta.
- 81126 Apr. 1—Restricting the speed of train at C.N.R. crossing of Steel Street, Port Colborne, Province of Ontario.
- 81127 Apr. 1—Approving Service Station Contract, between the Applicant Company and the La Conception Telephone Company.

- 81128 Apr. 2—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs file by the C.N.R. under Section No. 3.
- 81129 Apr. 2—Approving plan revised to March 18, 1953, showing protection and track layout of C.P.R. at mileage 53·7 Owen Sound Subdivision, Province of Ontario.
- 81130 Apr. 2—Requiring the C.P.R. to install protection at the crossing of its railway and Highway No. 27, near Midhurst, Ontario.
- 81131 Apr. 2—Requiring the C.N.R. to install protection at the crossing of the Highway, north of Utterson, Ontario.
- 81132 Apr. 2—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Empress Subdivision, Province of Saskatchewan.
- 81133 Apr. 2—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 81134 Apr. 2—Authorizing the C.N.R. to discontinue passenger service between Canada-United States Border and St. Johns, Quebec.
- 81135 Apr. 4—Authorizing the Alberta Department of Highways to construct its highway across the C.N.R. at mileage 57·2 Drumheller Subdivision and across the C.P.R. at Rosedale, Province of Alberta.
- 81136 Apr. 4—Authorizing the Newfoundland Department of Public Works to construct its highway across the right-of-way of the C.N.R. at Brigus Junction, in the Province of Newfoundland.
- 81137 Apr. 4—Authorizing the C.N.R. to construct an extension of the west side of Lagauchetiere Street Bridge, Montreal, P.Q.
- 81138 Apr. 7—Approving plan submitted to the Northern Alberta Railways Company by the Shell Oil Company Limited showing location of crude oil loading facilities at Reno, Alberta, for a temporary period.
- 81139 Apr. 7—Authorizing the Bell Telephone Company to construct its line of Telephone upon and along certain public highways in the County of Kent, in the Province of Ontario.
- 81140 Apr. 7—Authorizing the C.N.R. to extend the existing subway at St. Antoine Street, Montreal, P.Q.
- 81141 Apr. 7—Approving proposed location of storage tank, etc. of Superline Oils Limited near tracks of the Dominion Atlantic Railway Company at Yarmouth, Nova Scotia.
- 81142 Apr. 7—Authorizing the Grand Trunk Pacific Rly. Company to construct a railway team track along and upon Kalum Street, Village of Terrace, Province of British Columbia.
- 81143 Apr. 7—Approving plans showing extension of the South Plaza at the C.N.R. Central Station, Montreal, P.Q.
- 81144 Apr. 7—Authorized C.N.R. to construct the siding to serve Sylvania Electric (Canada) Limited and make changes to the signal protection at the siding at Drummondville, Province of Quebec.
- 81145 Apr. 7—Authorizing C.N.R. to abandon the station at Exton, Ontario.
- 81146 Apr. 7—Removing the slow order at the C.N.R. crossing immediately north of the station at Mayfair, Saskatchewan.
- 81147 Apr. 7—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at the crossing of their railways at Woodman, Province of Manitoba.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

May 15, 1953

No. 4

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Corporation of the Parish of St. Eustache, Province of Quebec, for the opening of a public crossing over the line of the Canadian National Railways in Lot 236, located in the said Parish, at mileage 14.65 Montfort Subdivision.

File No. 46560

Heard at Montreal, April 16th, 1953.

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

AIME LACROIX, for the Corporation of the Parish of St Eustache, Que.
G. M. COOPER and E. D. PINSONNAULT, for the Canadian National Railways.

ORAL JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

I have discussed this matter with my colleague and we have consulted our Assistant Director of Engineering and have come to the conclusion that this application should be granted, after the municipal authorities of St. Eustache have verbalized this road and declared it a public highway; the cost of construction and maintenance to be on the Applicant.

We think also that the Municipality should plan its future expansion with a view towards providing the necessary means of access to any new development or subdivision, so as to prevent the necessity of making a new application for a future crossing of the railway in that vicinity.

Order shall go accordingly.

MONTREAL, April 16, 1953.

I concur:

H. B. CHASE.



ORDER No. 81295

In the matter of the application of the Corporation of the Parish of St. Eustache, Province of Quebec, for the opening of a public crossing over the line of the Canadian National Railways in Lot 236, located in the said Parish, at mileage 14.65 Montfort Subdivision:

File No. 46560

SATURDAY, the 2nd day of May, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in Montreal, Que. on April 16, 1953, in the presence of Counsel for the Corporation of the Parish of St. Eustache and the Canadian National Railways—

It is ordered that the Corporation of the Parish of St. Eustache, in the Province of Quebec, be, and it is hereby, authorized to construct and maintain, at its own expense, a public crossing over the right of way of the Canadian National Railways in Lot 236 in the Parish of St. Eustache, in the Province of Quebec, at mileage 14.65 Montfort Subdivision, as shown on plan No. J-132, dated Montreal, April 7, 1953; the said crossing to be constructed in accordance with the Standard Regulations of the Board Affecting Highway Crossings.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81197

In the matter of the application of E. E. Cooper of Fort Nelson, British Columbia, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076.50

THURSDAY, the 16th day of April, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 272 be issued to the Applicant for the period of one year terminating on the 9th day of February, 1954, licensing the following ship, namely

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>M.V. Beaver River</i>	<i>Not registered</i>	<i>40</i>

to transport goods by water between all ports and places on the Nelson and Liard Rivers situated between Fort Nelson, British Columbia, and Fort Simpson, N.W.T. inclusive.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81213

In the matter of the application of the Hudson's Bay Company, under Section 21 of The Transport Act, 1938, for approval of revised pages of its Standard Freight Tariff C.T.C. No. F-8, on file with the Board under file No. 42082.31:

TUESDAY, the 21st day of April, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the following revised pages of the said Standard Freight Tariff C.T.C. F-8, of the Hudson's Bay Company

First Revised Title Page

First Revised Page 5

First Revised Page 6

First Revised Page 17

First Revised Page 23

be, and they are hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81241

In the matter of the application of the Canadian Freight Association, dated March 13, 1953, under the provisions of Part V of The Transport Act, 1938, for approval of an agreed charge:

File No. 40994.43

THURSDAY, the 23rd day of April, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed, notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections filed—

It is ordered that the agreed charge between the Canadian National Railway Company, Canadian Pacific Railway Company and The British American Oil Company, Limited, McColl-Frontenac Oil Company, Limited and Shell Oil Company of Canada, Limited, on fuel oil from Montreal, P.Q., to the Ottawa district, on file with the Board under file No. 40994.43, be, and it is hereby, approved; and the date from which the said agreed charge shall become operative is hereby fixed as March 16, 1953, for Shell Oil Company of Canada, Limited; May 1, 1953, for The British American Oil Company, Limited; and June 1, 1953, for McColl-Frontenac Oil Company, Limited.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81273

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 12 to Agreed Charge Tariff C.T.C. (AC) No. 14:

File No. 40994.16

WEDNESDAY, the 29th day of April, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*
H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 12 to Agreed Charge Tariff C.T.C. (AC) No. 14 on file with the Board under file No. 40994.16, be, and it is hereby, approved; and that the date as from which the said Supplement No. 12 shall be deemed to have become operative is hereby fixed as March 26, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
MARCH, 1953

Railway Accidents	183	Killed 13	Injured 179
Highway Crossing Accidents	35	Killed 8	Injured 49
Totals.....	218	Killed 21	Injured 228
		<i>Killed</i>	<i>Injured</i>
Passengers	—	—	25
Employees	3	3	149
Others	18	18	54
Total.....	21	21	228

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

NEWFOUNDLAND

Killed Injured

- 1 Auto truck stalled on crossing and was struck by train. Licence not given.

NOVA SCOTIA

- 1 4 Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.S. 7-69-98.

NEW BRUNSWICK

- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.B. 42-207.
— 3 Automobile drove onto crossing in front of approaching track motor car and was struck. Licence: N.B. 21975.

QUEBEC

Killed Injured

- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. 70566.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 88-061.
- 1 Auto truck ran into side of train. Licence: Que. F-59746.
- 1 Automobile ran into side of train. Licence: Que. 233474.
- 1 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. M-69353.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence not given.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. N-19322.

ONTARIO

- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 19827-C.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. BD-278
- 1 — Transport Trailer truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-77797-8.
- 1 Automobile ran into side of train. Licence: Ont. 87-S-57.
- 3 Automobile drove onto crossing in front of cars being pushed over crossing and was struck. Licence: Ont. A-5649.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 9-R-357.
- 1 Automobile ran into side of train. Licence: Ont. CS-211.
- 3 Automobile ran into side of train. Licence: Ont. ST-2168.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 63281-B.
- 1 Child walked onto crossing in front of approaching train and was struck.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 7921-U.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 98-R-81.
- 2 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 551-J-3.

MANITOBA

- 3 Automobile ran into side of train. Licence: Man. 7-D-325.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 4-N-275.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Man. T-5642.
- 1 Automobile parked foul of track was struck by train. Licence: Man. 4-B-849.

SASKATCHEWAN

- 2 Automobile ran into side of standing train. Licence: Alta. 23-O-24.
- 3 Auto truck drove onto crossing in front of approaching track motor car and was struck. Licence: Sask. F-49-708.
- 2 Automobile ran into side of train. Licence: Alta. 82017.

ALBERTA

- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 11-S-58.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 60-Z-16.
- 1 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 41-E-63.

BRITISH COLUMBIA

- 1 Automobile drove onto crossing in front of train backing over crossing and was struck. Licence: B.C. A-4119.

Of the 35 accidents at highway crossings, 29 occurred at unprotected crossings, and 6 at protected crossings. Twenty occurred after sunrise and fifteen after sunset.
OTTAWA, Ont., April 23, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81148 Apr. 7—Approving plans relating to track structure of the C.N.R. in the Central Station area, City of Montreal, P.Q.
- 81149 Apr. 7—Requiring the C.N.R. to install protection at crossing of the Trans Canada Highway near Paddington, Man.
- 81150 Apr. 7—Approving plan showing protection installed at the crossing of C.P.R. and Highway No. 2 at Calgary, Alta.
- 81151 Apr. 8—Authorizing the Toronto Harbour Commissioners to construct a siding to serve lands leased to Brewers' Warehousing Company Limited, Toronto, Ont.
- 81152 Apr. 8—Relieving the C.P.R. from erecting fencing between certain mileages on its Bredenbury Subdivision, Manitoba.
- 81153 Apr. 8—Authorizing the C.N.R. to make track and signal changes in the siding serving Sylvania Electric (Canada) Limited, Drummondville, P.Q.
- 81154 Apr. 8—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Broadview Subdivision, Saskatchewan.
- 81155 Apr. 8—Relieving the C.P.R. from erecting cattle guards at certain crossings on its McAuley Subdivision, Saskatchewan.
- 81156 Apr. 8—Authorizing the C.P.R. to make signal changes at the interlocking at junction of its railway and the Quebec Central Railway Company in the City of Sherbrooke, P.Q.
- 81157 Apr. 8—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Neudorf Subdivision, Saskatchewan.
- 81158 Apr. 8—Requiring the C.P.R. to construct a spur track along Prince of Wales Street and across St. Andre and St. James Streets, in the City of Quebec, P.Q.
- 81159 Apr. 9—Extending the time within which protection is to be installed at C.N.R. crossing of Tecumseh Road, Tecumseh, Ont., as required by Board's Order No. 79895.
- 81160 Apr. 9—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Public Utilities Commission of the City of Port Arthur, Ontario.
- 81161 Apr. 10—Authorizing the C.P.R. to use the extension to the bridge west of Gull Lake, Sask.
- 81162 Apr. 10—Permitting the removal of slow order at C.P.R. crossing near station at Clonmel, Sask.
- 81163 Apr. 10—Approving proposed location of storage tanks, etc., of The British American Oil Company Limited, near the C.N.R. tracks at Prince Rupert, B.C.
- 81164 Apr. 10—Approving certain revisions to tariffs filed by the Bell Telephone of Canada.
- 81165 Apr. 10—Permitting the removal of slow order at C.N.R. crossing and Fifth Avenue, Ville St. Pierre, P.Q.
- 81166 Apr. 10—Restricting the speed of trains at C.P.R. crossing near station at Gatineau, Quebec.
- 81167 Apr. 10—Permitting the removal of slow order at C.P.R. crossing of Anderson Street, Melfort, Sask.
- 81168 Apr. 10—Requiring that all movements on C.N.R. crossing of Egerton Street, London, Ont., be protected by a member of train crew.
- 81169 Apr. 10—Approving Supplement No. 34 to Canadian Freight Classification No. 19.
- 81170 Apr. 10—Permitting the removal of slow order at C.P.R. crossing at mileage 37·3 Willingdon Subdivision, Alberta.
- 81171 Apr. 11—Approving plan showing the location of Trans Mountain Oil Pipe Line pipe line within the Yale Division of the Yale District, British Columbia.
- 81172 Apr. 11—Authorizing the C.N.R. to install protection at crossing at John Street, North Bay, Ont.
- 81173 Apr. 11—Requiring the C.P.R. to install protection near station at Beeton, Ont.
- 81174 Apr. 13—Authorizing the issuance of Licence No. C.T.C. (W.T.) 271 to the Hudson's Bay Company.
- 81175 Apr. 13—Authorizing the County of Renfrew to construct a road diversion across the C.P.R. spur track, serving the Dominion Magnesium Mine, County of Renfrew, Ontario.
- 81176 Apr. 13—Amending Order No. 77150, dated August 9, 1951, which authorized the Ontario Department of Highways to construct Highway No. 17 across the C.P.R. in the Township of Nairn, Ontario.
- 81177 Apr. 13—Approving Supplement No. 4 to Express Classification for Canada No. 9.
- 81178 Apr. 13—Extending the time within which automatic protection is to be installed at the C.N.R. crossing of 118th Avenue, Edmonton, Alta.
- 81179 Apr. 14—Authorizing the C.N.R. to relocate the existing wig wag signals at the crossing of Edinburgh Road, Guelph, Ont.

- 81180 Apr. 14—Authorizing the C.P.R. to relocate a signal and install three additional automatic signals near Parkbeg, Sask.
- 81181 Apr. 14—Authorizing the Trans Mountain Oil Pipe Line Company to construct and maintain a loading dock at its Western Terminal located in Burrard Inlet, New Westminster District, British Columbia.
- 81182 Apr. 15—Amending Order No. 47259, dated August 25, 1931, in regard to protection at C.P.R. crossing between Raymur and Campbell Avenues, City of Vancouver, B.C.
- 81183 Apr. 15—Approving proposed location of storage tanks, etc., of Marce Aurele Fournier, near C.N.R. tracks at Gaspe, P.Q.
- 81184 Apr. 15—Relieving the C.N.R. from erecting fencing of their Beechy Subdivision, Saskatchewan.
- 81185 Apr. 15—Approving proposed location of storage tanks, etc., of Ford Motor Company of Canada Limited near the tracks of the C.N.R., Oakville, Ont.
- 81186 Apr. 15—Requiring the Quebec Department of Roads to decrease the inclination of the highway approach on the south side of the crossing of 55th Avenue and the C.P.R. in the City of Lachine, Quebec, by constructing ramps.
- 81187 Apr. 15—Approving Supplement No. 3 to Agreed Charge tariff C.T.C. (AC) No. 32.
- 81188 Apr. 15—Approving Supplement No. 6 to Agreed Charge tariff C.T.C. (AC) No. 46.
- 81189 Apr. 16—Authorizing the Alberta Department of Highways to widen its highway where it crosses the C.P.R. at mileage 27-77 Strathmore Subdivision, Alberta.
- 81190 Apr. 16—Authorizing the C.N.R. and the T. H. and B. Railway Company to operate through the interlocker at the crossing of their railways at Victoria Avenue, Hamilton, Ont.
- 81191 Apr. 16—Permitting the removal of slow order at the C.N.R. crossing, fourth public crossing west of the City of St. Catharines, Ont.
- 81192 Apr. 16—Permitting the removal of slow order at the C.N.R. crossing, second crossing east of the station at Laurier, Man.
- 81193 Apr. 16—Approving location and details of the station shelter to be erected by the C.N.R. at Chaffey's Locks, Ont.
- 81194 Apr. 16—Restricting the speed of C.N.R. trains at crossing of Dawson Road, St. Boniface, Man.
- 81195 Apr. 16—Permitting the removal of slow order at Nipissing Central Railway crossing at mileage 53-46, Kirkland Lake Subdivision, Ontario.
- 81196 Apr. 16—Permitting the removal of slow order at crossing of N.Y.C. Railway and Lake Street, Huntingdon, Que.
- 81197 Apr. 16—Authorizing the issuance of Water Licence No. C.T.C. (W.T.) 272 to E. R. Cooper of Fort Nelson, B.C.
- 81198 Apr. 17—Authorizing the C.P.R. to install protection in lieu of the existing mechanical gates at the crossing of 18th Street, Brandon, Man.
- 81199 Apr. 18—Permitting the removal of slow order at C.P.R. crossing near station at Ste. Rose, Que.
- 81200 Apr. 18—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under Section 9.
- 81201 Apr. 18—Authorizing the Interprovincial Pipe Line Company to construct its company pipe line across that portion of the St. Clair River, Ontario.
- 81202 Apr. 18—Approving Supplement to Service Station Contract between The Bell Telephone Company and the Crown Hill Telephone Company, Limited.
- 81203 Apr. 20—Extending the time within which the C.N.R. are required to install certain protection at crossing of Highway No. 63, La Sarre, Que.
- 81204 Apr. 20—Permitting the removal of slow order at C.P.R. crossing, known as Boggs Crossing, South Bay, N.B.
- 81205 Apr. 20—Permitting the removal of slow order at C.N.R. crossing at Parkdale Avenue, Hamilton, Ont.
- 81206 Apr. 21—Permitting the removal of slow order at C.N.R. crossing near Lloydminster, Saskatchewan.
- 81207 Apr. 21—Permitting the removal of slow order at C.P.R. crossing in the Town of Selkirk, Man.
- 81208 Apr. 21—Permitting the removal of slow order at C.N.R. crossing of Melvin Avenue, Sudbury, Ont.
- 81209 Apr. 21—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under Sections 3 and 9.
- 81210 Apr. 21—Approving certain Tariffs filed by the British Columbia Telephone Company.
- 81211 Apr. 21—Requiring the C.N.R. to reconstruct the existing subway at crossing of Highway No. 29, St. Eustache sur le Lac, Que.
- 81212 Apr. 21—Authorizing the Town of St. Felicien, P.Q., to construct highway across the C.N.R. in the said town.

- 81213 Apr. 21—Approving revised pages of Standard Freight Tariff C.T.C. No. F-8 of the Hudson's Bay Company.
- 81214 Apr. 21—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking at St. James Junction, Winnipeg, Man.
- 81215 Apr. 22—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 81216 Apr. 22—Approving location of storage tank, etc., of Stewart Petroleums Limited near C.P.R. tracks at Calgary, Alta.
- 81217 Apr. 22—Authorizing the Bell Telephone Company to construct its lines of telephone upon and along a certain public highway in the Town of Chatham, Ont.
- 81218 Apr. 22—Permitting the removal of slow order at C.N.R. crossing near station at Ashern, Man.
- 81219 Apr. 22—Approving location of storage tank, etc., of Sylvania Electric (Canada) Limited, near C.N.R. tracks at Drummondville, P.Q.
- 81220 Apr. 23—Authorizing the Municipality of South Sherbrooke, Ont., to construct the highway across the C.P.R. at mileage 24.04 Belleville Subdivision, Ontario.
- 81221 Apr. 23—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Colonsay Subdivision, Saskatchewan.
- 81222 Apr. 23—Relieving the Esquimalt & Nanaimo Railway Company from erecting cattle guards at certain highway crossings on its Victoria Subdivision, British Columbia.
- 81223 Apr. 23—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Lanigan Subdivision, Saskatchewan.
- 81224 Apr. 23—Permitting the removal of slow order at C.P.R. crossing, west of station at Agassiz, B.C.
- 81225 Apr. 23—Permitting the removal of slow order at C.P.R. crossing near station at Craighurst, Ont.
- 81226 Apr. 23—Permitting the removal of slow order at C.P.R. crossing near station at Warren, Ont.
- 81227 Apr. 23—Permitting the removal of slow order at C.N.R. crossing of Metropolitan Boulevard, Montreal West, Que.
- 81228 Apr. 23—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Bulyea Subdivision, Saskatchewan.
- 81229 Apr. 23—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Hoadley Subdivision, Alberta.
- 81230 Apr. 23—Relieving the Esquimalt & Nanaimo Railway Company from erecting cattle guards at certain crossings on its Port Alberni Subdivision, British Columbia.
- 81231 Apr. 23—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Leduc Subdivision, Alberta.
- 81232 Apr. 23—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Coronation Subdivision, Saskatchewan.
- 81233 Apr. 23—Authorizing the Manitoba Department of Public Works to re-align the highway across the C.P.R. at mileage 59.15 Estevan Subdivision, Manitoba.
- 81234 Apr. 23—Relieving the C.P.R. from erecting cattle guards at certain highway crossing on its Lacombe Subdivision, Alberta.
- 81235 Apr. 23—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.P.R. tracks at Stettler, Alta.
- 81236 Apr. 23—Extending the time within which protection is to be installed at C.P.R. crossing of Avenue "A", Saskatoon, Sask.
- 81237 Apr. 23—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Margaret, Man.
- 81238 Apr. 23—Requiring the C.P.R. to install protection at crossing at mileage 62.88 Heron Bay Subdivision, Ontario.
- 81239 Apr. 23—Approving Appendix to Traffic Agreement between The Bell Telephone Company and the Eastern Townships Telephone Company.
- 81240 Apr. 23—Approving Service Station Contract between The Bell Telephone Company and Syndicat Cooperatif de Telephone St. Rene Coupil.
- 81241 Apr. 23—Approving agreed charge between the Canadian National Railway and C.P.R. and The British American Oil Company, Limited, McColl-Frontenac Oil Company, Limited and Shell Oil Company Limited on fuel oil from Montreal to Ottawa district.
- 81242 Apr. 24—Approving proposed location of storage tanks of the C.N.R. for the handling and storage of inflammable liquids at their East Yards at Winnipeg, Man.
- 81243 Apr. 24—Approving proposed location of storage tank, etc., of Standard Oil Company of B.C. Limited, near the C.N.R. tracks at Terrace, B.C.
- 81244 Apr. 24—Authorizing the C.P.R. to make changes in the signal protection at the junction of the Belleville and Chalk River Subdivisions in Smith Falls Yard, Ontario.

- 81245 Apr. 24—Authorizing the C.P.R. to install three additional automatic block signals in the vicinity of MacGregor, Man.
- 81246 Apr. 25—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canada and Gulf Terminal Railway Company under Section 9.
- 81247 Apr. 25—Requiring the C.N.R. to install protection at crossing known as Town Line West, Town of Toronto, Ont.
- 81248 Apr. 25—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Section 9.
- 81249 Apr. 27—Authorizing the Township of Waterloo, Ont., to construct a pedestrian crossing over the C.P.R. in Township of Waterloo, Ont.
- 81250 Apr. 28—Approving track centres on the ferry transfer bridge and approaches thereto of the Chesapeake and Ohio Railway Company at Sarnia, Ont.
- 81251 Apr. 28—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Maritime Coal, Railway and Power Company, Limited, under Section 9.
- 81252 Apr. 28—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking near Estevan, Sask.
- 81253 Apr. 28—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking near Bienfait, Sask.
- 81254 Apr. 29—Approving proposed location of storage tank of Imperial Oil Limited near the C.N.R. tracks at Roberval, P.Q.
- 81255 Apr. 29—Relieving the C.N.R. from erecting fencing on their Rosetown Subdivision, Saskatchewan.
- 81256 Apr. 29—Permitting the removal of slow order at the Sydney and Louisburg Railway crossing known as Mackie's Crossing, Gardiner Mines, N.S.
- 81257 Apr. 29—Permitting the removal of slow order at C.N.R. crossing of Forks Road near Welland Junction, Ont.
- 81258 Apr. 29—Restricting the speed of the Midland Railway trains at crossing of Corydon Avenue, Winnipeg, Man.
- 81259 Apr. 29—Authorizing the Town of Amabel to improve the grade at C.N.R. crossing at mileage 4·28 of the highway, and C.N.R. crossing, Wiarton Subdivision, Ontario.
- 81260 Apr. 29—Authorizing the Town of Amabel to improve the grade at C.N.R. crossing at mileage 56·18, Owen Sound Subdivision, Ontario.
- 81261 Apr. 29—Authorizing the Town of Amabel to improve the grade at C.N.R. crossing at mileage 55·36 Owen Sound Subdivision, Ontario.
- 81262 Apr. 29—Authorizing the Alberta Department of Highways to widen the highway where it crosses the C.P.R. between the Northwest quarter of 31-38-R2-W5 Meridian and the Southwest quarter of 6-39-R2-W5 Meridian, Alberta.
- 81263 Apr. 29—Restricting the speed of the Montreal and Southern Counties Railway Company trains at the crossing of Sir Wilfrid Laurier Boulevard, St. Lambert, Que.
- 81264 Apr. 29—Approving Supplement to Service Station Contract between the Bell Telephone Company and the Commissioners for the Telephone System of the Township of Vespra.
- 81265 Apr. 29—Authorizing the Grand Trunk Pacific Railway Company to construct an additional railway track across 123rd Avenue, Edmonton, Alta.
- 81266 Apr. 29—Approving proposed location of storage tank of Imperial Oil Limited near the C.P.R. tracks, Theodore, Sask.
- 81267 Apr. 29—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.P.R. tracks at Wilkie, Sask.
- 81268 Apr. 29—Authorizing the C.N.R. to install protection at crossing of Degg Street in lieu of the present protection at crossing of Park Street, City of Chatham, Ontario.
- 81269 Apr. 29—Authorizing the C.P.R. to operate under the overhead highway bridge at mileage 1·01 Thessalon Subdivision, Ontario.
- 81270 Apr. 29—Requiring the C.N.R. to improve the sight lines at the crossing of their railway and Third Avenue West, Owen Sound, Ont.
- 81271 Apr. 29—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under Section 9.
- 81272 Apr. 29—Authorizing the C.P.R. to operate under the overhead highway bridge at mileage 17·4 Thessalon Subdivision, Ontario.
- 81273 Apr. 29—Approving Supplement No. 12 to Agreed Charge Tariff C.T.C. (AC) No. 14 filed by the Canadian Freight Association.
- 81274 Apr. 29—Approving proposed location of storage tanks, etc., of Williams Propane Limited, near the C.N.R. tracks at Prince George, B.C.
- 81275 Apr. 29—Authorizing the Grand Trunk Pacific Railway Company to construct a spur to serve a new industrial area in the City of Prince George, B.C.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

June 1, 1953

No. 5

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

Complaint of Maple Leaf Milling Company Limited, and Robin Hood Flour Mills, Limited, re Rates on Grain Products, Carloads, from Port Colborne and Humberstone, Ontario, milled from grain received ex-water.

File 8641-88

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

JOHN M. GODFREY, for the Maple Leaf Milling Co., Ltd., and Robin Hood Flour Mills, Ltd.

W. J. SMALLACOMBE, for the Maple Leaf Milling Co., Ltd.

W. MACDOUGALL, for Robin Hood Flour Mills, Ltd.

J. C. SULLIVAN, for Quaker Oats Company, Ltd.

A. K. DYSART, for the Canadian National Railways.

K. D. M. SPENCE, for the Canadian Pacific Railway Co.

H. SOULE, for the Toronto, Hamilton and Buffalo Railway Co.

Heard at Ottawa, June 23, 24, 1952.

JUDGMENT

KEARNEY, J., Chief Commissioner:

The applicants in this case are the Maple Leaf Milling Company, Limited, (sometimes hereinafter called "Maple Leaf") having a flour mill at Port Colborne, Ontario, with a daily capacity of 12,000 barrels; and Robin Hood Flour Mills, Limited (sometimes hereinafter called "Robin Hood"), having a flour mill at Humberstone, Ontario, with a daily capacity of 5,000 barrels.

Both mills have ready access to water transportation. Humberstone is situated about two miles from Port Colborne, and both points are served by the Canadian National Railways and the Toronto, Hamilton and Buffalo Railway.

Both mills are primarily engaged in milling wheat into flour and its by-products. The Maple Leaf mill processes western wheat entirely, and the Robin Hood mill western wheat primarily.

NATURE OF THE APPLICATION

While the scope of this application has been somewhat obscured by a number of side issues, the main point is the allegation by the applicants that rates on grain products named in certain tariffs* of the Canadian National Railways and Canadian Pacific Railway Company, from Port Colborne and Humberstone, Ontario, to destinations in eastern Canada for domestic delivery; to eastern Canadian and United States ports for export; and to certain destinations in the New England and New York States, are unreasonable and discriminatory to the extent that such rates include a charge for stop-off, or milling-in-transit, for which the railways provide no service.

The relief desired is that we direct the railways to reduce such rates to the same level as rates on grain contemporaneously applicable from the same points to the same destinations.

It may be noted that certain of the tariffs named in the footnote hereto have been subsequently superseded by other tariffs. Such superseding tariffs are deemed to form part of the applicants' case.

EVIDENCE

In evidence it was stated that the applicants bring grain from Western Canada into the mills chiefly by water directly to their own elevator facilities; that the railways perform no service in such instances, although some grain may reach the mills through the Government elevator at Port Colborne involving rail switching service but when such movement occurs. Maple Leaf does its own switching but Robin Hood utilizes railway switching. No exception is taken to charges incurred when the railway performs the switching service.

Grain also moves to the mills of the applicants by all-rail, and by rail from the Georgian Bay ports, and when moving under milling-in-transit arrangements, out-of-line haul charges and stop-off charges are incurred, to which no objection is now made.

Flour mills are also located at Montreal where wheat can be obtained by all-water movement, or all-rail, or from Georgian Bay ports. It is asserted that such mills now utilize the Bay port route as being the cheapest.

An exhibit was filed showing the location, and mileage "via the mill" to Montreal, of fifteen other mills situated in Ontario but not at waterside and consequently unable to secure grain directly by water. It is said that all of these mills obtain wheat from the Bay ports and that the hauls on the flour milled from such wheat are in some instances longer than the haul on flour shipped from the applicants' mills.

Flour mills are also located at Midland and Goderich, Ontario, although the Goderich mill, formerly owned by Western Canada Flour Mills Company, is now closed, but the mill at Midland is charged the same rates as assailed here, but enjoys a lower lake rate on its grain due to the shorter water haul from Fort William.

* Tariffs named in the application:

Canadian National Railways: C.T.C. Nos. E. 3561, 3867, 3964.

Canadian Pacific Railway: C.T.C. Nos. E. 5008, 5021, 5153.

Exhibits were also filed by the applicants showing the average lake rates charged on wheat to Georgian Bay ports and to Port Colborne each year since 1913, and the rates established by orders of 1948 and 1951 of the Board of Grain Commissioners. The latter shows that the spread in the lake rate, Port Colborne over the Bay ports, is now 2¢ per bushel (3.33¢ per 100 pounds).

The exhibit showing the average rates indicates that until 1939, the Port Colborne rates were approximately the same as those to the Bay ports, but have since become higher.

Ex-lake rates of the railways on both grain and grain products, are applicable to points which are more than 250 miles from the shipping point. For distances 250 miles and less the ex-lake rates are generally the same as those applicable under the Ontario mileage scale which applies uniformly to both grain and grain products. However, when ex-lake rates are applied to grain which is milled at the Lake or Bay port and shipped therefrom as grain products, the railways assess an additional amount of 1 $\frac{3}{4}$ ¢ per 100 pounds. Therefore for the distances up to 250 miles the Ontario mileage scale rates apply as no such addition thereto is made under such scale.

Grain ex-lake may be stopped in transit and milled into flour. The through rate on grain from the Lake or Bay port applies to the final destination of the flour, plus an additional amount of 1 $\frac{3}{4}$ ¢ per 100 pounds for stop-off, and plus any out-of-line haul charge incurred.

An exhibit was filed showing the rates on ex-lake grain and grain products to Montreal as at December 1, 1921, and those now in effect. The purpose of the exhibit is to show that if the grain rate plus the stop-off charge had been treated as a single factor "products" rate, the percentage increases made in the general rates structure would have resulted in a present rate $\frac{3}{4}$ ¢ lower than it is now.

Evidence was also given to the effect that, apart from certain instances where rates are predicated upon American rates, the grain products rates assailed are the only ones that are higher than on grain; that, for example, if flour is milled from grain at points of origin such as Medicine Hat, the original shipment by rail is the flour movement and the grain rate is applied. The same example applies in eastern Canada where the Ontario local scale applies.

Evidence of the railways was confined chiefly to the filing of four exhibits by Counsel, and the calling of a witness representing the Quaker Oats Company Limited whose representations are dealt with later.

Two of the exhibits were maps showing the geographical locations of the ports, flour mills, and the railway lines serving the area.

Exhibit No. 10 consisted of an historical statement of the rates on grain, and grain products, from Bay and Lake ports to Montreal, with comparisons of the Ontario mileage scale rates from Goderich and Port Colborne; the period covered thereby is from April 1, 1905, to February 11, 1952.

It is shown that until January 11, 1908, the ex-lake rates on grain products were those obtained by the use of the Ontario mileage scale, but on that date became higher than the comparable grain rates. For example, the 1905 ex-lake grain rate to Montreal was 10¢ and the only tariff rate on grain products was 15¢. Following the Board's ruling of 1907 in the Western Canada Flour Mills case, which will be referred to later herein, the 15¢ rate was reduced to 12¢ while the grain rate remained at 10¢.

Since that time, except for a short period in 1932 when lower rates on grain products than on grain were temporarily applicable from Port Colborne and Goderich, the ex-lake products rates have been uniformly higher than the contemporaneous grain rates.

Exhibit No. 11 is a statement of the changes in the grain, and grain products, rates from January 1, 1920, from the Head-of-the-lakes and Bay ports, to Toronto, Montreal, Saint John, and Halifax, and is intended to show the rela-

tionship that has existed between the All-rail and Lake-and-rail rates from the Head-of-the-lakes and the Bay ports. For example, it is shown therein that on January 1, 1920, the Lake-and-rail rate from the Head-of-the-lakes to Montreal was 5¢ under the All-rail rate. This relationship was disrupted between 1931 and November 1, 1939, but was restored then and has since been maintained. Rates on grain from the Bay ports, which on January 1, 1920, were 14½¢ less, than the All-rail rates from the Head-of-the-lakes are now 15¢ less, or approximately the same spread as in 1920, but such relationship was disturbed to some extent in the intervening years.

Counsel for the railways, in introducing the exhibit, contended that the relationship is practically constant.

As the major part of the time spent in hearing the case was taken up by argument of Counsel, I shall only review as briefly as possible, the main points so dealt with.

SUBMISSIONS OF APPLICANTS AND RESPONDENTS

The main points of the applicants' case are:

1. That the rates charged on ex-lake grain milled at lake ports include a stop-off charge which is not incurred as no stop-off service is performed by the railway.
2. That the precedent set in two decisions of the Board rendered in 1907 and 1917 respectively wherein the Western Canada Flour Mills Company, Limited, of Goderich, Ontario, was complainant and the Grand Trunk Railway respondent, should not be followed in as much as the said decisions were wrong in law because allegedly the Board ordered the respondent to apply a new tariff on flour to equalize geographical disadvantages which the Board has itself held in many cases it had no power to do.

Apart from denying that they are charging for a stop-off service which is not performed, the main points of the railways' defence are—

(1) That the reason for now charging inland mills the equivalent rate on flour milled in transit from ex-lake grain to that charged the complainants on flour which is not milled in transit is (a) because it is a measure of long standing to equalize rates among competing mills and necessary in order to maintain the delicate balance existing in the flour milling industry; and (b) that unless the interior mills were able to deliver ex-lake flour at Montreal at the same freight rate as the complainants, the railways would lose a great deal of valuable traffic from the interior mills.

(2) That the conditions which prevailed when the 1907 and 1917 judgments were rendered have not changed except with respect to the lake rates over which neither the railways nor the Board has any control, and the Board should consequently follow the basis established in the Western Canada Flour Mills cases.

(3) That the applicants cannot succeed unless it is proven that the rates assailed are unjust or unreasonable per se or are unjustly or unduly discriminatory in fact, which is not the case.

REVIEW OF EARLIER DECISIONS

What might be termed the 1907 case was decided by the Board, with the consent of the parties involved, by correspondence, and the case is not reported. Nearly ten years later, however, an attempt was made to re-open the 1907 case which in the meantime had remained unchallenged.

In explaining their long delay in seeking a review the Western Canada Flour Mills Company stated "For some unknown reason apparently no further action was taken by us, although we have always felt that the adjustment is unfair."

The application to re-open the 1907 case was heard before Commissioner McLean and is reported in J.O.R. & R. 7, at page 59.

Reference to the Board's file in the 1907 case shows that two reports were made by the then Chief Traffic Officer, J. Hardwell, dealing with the issues involved and expressing his views. A perusal of the first report shows that the Western Canada Flour Mills Company's complaint, which was dated May 2, 1907, indicated that the railway concerned (G.T.R.) prior to January 1, 1907, had been billing Western Canada Flour Mills Company with a 10 cent plus 2 cent milling-in-transit on ex-lake flour shipped from Goderich to Montreal, but granted thereon a refund of 2 cents per 100 pounds being the equivalent amount which was being charged to the inland mills for stop-off services in connection with Western ex-lake grain which they milled in transit. The mill at Goderich being geographically so located on the lakeside that it could unload grain from shipboard into its mill, did not use the railway facilities to bring ex-lake grain into their mill and apparently it was for this reason alone that the refund was made.

It was apparently on the complaint of some interior mill that the refund to the Western Canada Flour Mills Company was discontinued. It is interesting, however, to note the attitude which the railway adopted with respect to the justification or otherwise of the refund. It apparently did not wish to offend either the inland millers or the Western Canada Flour Mills Company and it adopted a neutral attitude and declared that it would submit to the ruling of the Board. As emphasized by counsel for the applicants in the present case, the only issue before the Board in the 1907 case was whether the refund should or should not continue to be made. For reasons mentioned in his reports, the Chief Traffic Officer could not conceive any justifiable reason why the inland millers could object to the refund heretofore made and why they should seek to deny to the complainants the advantage they enjoyed by reason of their location at a lake port during the season of navigation, and he made a recommendation accordingly. The then Chief Commissioner took a different view of the case. He considered, and I think rightly, that because there was no published milling-in-transit tariff in force applicable to Goderich the railway was unjustified in employing a non-existent tariff to the shipment of ex-lake flour from the Goderich mill, inferentially the Chief Commissioner considered that the railway would be as equally unjustified in charging a 10 cent rate as a 12 cent rate because there was no tariff to sustain either. Chief Commissioner Killam moreover pointed out that the only published rate applicable in this instance from Goderich was the Ontario mileage rate which at the time stood at 15 cents per 100 pounds. If the matter had been allowed to rest there and the next move left to the initiative of the railway, I think counsel for the applicants in the present case might well have been deprived of his argument that the Board in the 1907 case had exceeded its jurisdiction.

The Chief Commissioner however set out his decision, in which the then Deputy Chief Commissioner concurred, in a letter signed by the Secretary of the Board and addressed to the then Solicitor of the G.T.R., under date of December 28, 1907, which reads as follows:

"Dear Sir,—

File 4817, Complaint of Western Canada Flour Mills

I am directed to inform you that the Board has had under consideration the complaint of the Western Canada Flour Mills Company respecting the rates charged by the Railway Company for carriage of the Flour Mills

Company's flour from Goderich, and the objection of the Flour Mills Company to the payment of the charge of two cents per 100 pounds for milling-in-transit privileges, and your letter of the 29th of May in answer thereto, together with the Chief Traffic Officer's Reports of the 17th and 25th of October, copies of which I herewith enclose.

I am directed to say that it appears to the Board that the case is not one to which the tariff C.R.C. E.374 applies, as that tariff relates to shipments of grain which stops over for milling before it reaches its destination, while the shipments of the Flour Mills Company are of flour only, and that it appears to the Board that the tariff rates applicable to the Flour Mills Company's traffic are those set out in tariff C.R.C. No. E. 90 as modified by supplement No. 4, under which the Railway Company is entitled to charge more than the rates which have been charged to the Flour Mills Company, but that the Board thinks that the tariff should be changed so that the rates charged will be no higher than those which are the subjects of the complaint. The Board understands these to be 12 cents per 100 pounds.

Yours truly,

(Sgd) A. D. CARTWRIGHT."

Counsel for the applicants in this case urged strongly that the Board exceeded its jurisdiction in the 1907 case, not only by deciding issues which were not before it, but because on its own initiative it rendered a judgment which equalized the geographical position of the interior mills, and the applicants' lake mill, a decision which, though not at that time, the Board has since held it is without jurisdiction so to do. The then Chief Commissioner did not give any reasons why the Ontario mileage rate should not have been adopted by the railway and why with propriety the railway might go on charging the mill at Goderich the 12 cents heretofore charged, provided they did so under a new commodity rate to be published.

If one reads between the lines it emerges from the Chief Commissioner's judgment that in his opinion to apply the Ontario mileage rate would amount to undue discrimination, whereas to apply a 12 cent commodity rate would not.

COMPARISON OF PRESENT APPLICATION WITH WESTERN FLOUR MILLS CASES

For reasons hereinafter mentioned I think the present application is readily distinguishable from those which were dealt within the Western Canada Flour Mills cases. Nevertheless as much time was given in argument to a discussion of these cases, I wish to comment upon them as follows.

Unlike in the present case, the railway in the 1907 case did not allege any good reasons why the discrimination between the lake mills and the interior mills was justified, it simply adopted a passive attitude and that with respect to the issue of whether the refund in favour of the lake mills should be re-established.

The judgment of the Chief Commissioner, which was one of the earlier decisions of this Board, I consider went further than our Board would be prepared to go today under similar circumstances, and whether under all the circumstances which then existed in determining the case in the manner in which he did the late Chief Commissioner and his colleague exceeded their jurisdiction, I am not disposed to say because such a determination I do not consider is necessary in order to decide the present application.

Similarly I do not propose to make any finding as to whether on review of the 1917 case Commissioner McLean erred in refusing to re-open the case, and in finding that the facts involved in the 1907 case did not differ from those in the

application before him. We are not now concerned with reviewing or re-opening a previous application and I prefer to adjudicate upon the present case on its own merits and without regard to the two earlier decisions above referred to.

At no time in the present case was it suggested that the 1907 and 1917 cases should be re-opened or reviewed and Mr. Godfrey, counsel for the applicants, in referring to these earlier cases suggested with justification that the theory of *stare decisis* has not the significance before the Board of Transport Commissioners which it has in other courts of law, and that we are free at any time to ignore previous doubtful decision. This I propose to do.

The Western Flour Mills has closed its plant at Goderich and the parties in the present case differ from those who were involved in the earlier cases. One of the applicants, namely, the Maple Leaf Milling Company began operations in 1911 at Port Colborne, and the applicant Robin Hood Flour Mills Limited only began operations at Humberstone in 1940. The Canadian Pacific Railway was in no way involved in the Western Canada Flour Mills' cases, and the same is true of the Toronto, Hamilton and Buffalo Railway. The Canadian National Railways is a considerably different company from the old Grand Trunk Railway.

The Tariffs or items thereof which the applicants seek to set aside under Section 325 and all other relevant sections of the Railway Act, are tariffs which have been varied upwards and downwards from time to time. All these changes were generally initiated by the railway companies, and the only action of the Board in respect thereto was to accept the tariffs subject to objection in the usual manner.

I might state in passing, the evidence shows that Maple Leaf located its mill in 1911 at Port Colborne under a disadvantage as to the lake rates and an advantage as to rail export rates to American ports. Robin Hood established its mill at Humberstone in 1940 and thereby acquired the same advantages and disadvantages. The latter company stated in evidence it always intended to press for removal of the alleged disadvantage in rail rates but was unable to do so for various reasons until the present time. In general, however, it appears that the incidence of the lake freight rates coupled with a downward trend in exports has motivated the present complaint and it is obviously now raised in an attempt to gain a stronger foothold on domestic markets to compensate for reduced export sales.

If the present application were to succeed and flour milled from ex-lake grain at the lake port could be delivered at Montreal and beyond at a lower cost to the lake-port mills in terms of railway freight rates, the inland millers in Ontario would suffer both in the domestic and export markets and the railways would experience a diminution in traffic from the interior mills. It was doubtless for this reason that the Quaker Oats Company, which has an inland mill located at Peterborough, appeared before us and opposed the present application.

Whereas the G.T.R. in the Western Flour Mills cases admitted that they were charging for a service that was not rendered, the respondents now before us deny that this is true today, and counsel for the Canadian Pacific Railway declared that he resented the imputation.

The Railway companies involved declared that if the present tariffs afforded an advantage of $1\frac{3}{4}$ cents per 100 pounds to inland mills this advantage was accorded in order that the railways may retain the benefit of the flour traffic which they enjoy from the inland mills, which traffic would be diminished or lost to them if the above mentioned advantage were removed. Unlike the position taken by the Grand Trunk Railway in the earlier case, counsel for the Canadian National Railways frankly admitted that the charging of rates on flour at a higher level than on grain was discrimination but asserted it was discrimination the railway was permitted to make under the Railway Act, and stated further that while there is ample jurisprudence that the Board of Trans-

port Commissioners has no power to equalize geographic advantages or disadvantages, the railway may do so, provided in the process there is no unjust discrimination or undue or unreasonable preference or advantage or prejudice or disadvantage within the meaning of the Railway Act. One leading case in this connection is the case of *Surrey Co-operative Ass'n of B.C. v. C.N.R. and C.P.R.*, 54 C.R.T.C. 62.

The railways also allege their purpose in equalizing the lake-port with interior mills is to maintain the difficult task of preserving a long established trade pattern and the delicate balance which has existed for many years among competing grain and flour industries. In the latter connection the railways point out that they could not accord the relief sought by the applicants without consequential dislocation to the business of other mills.

CONCLUSIONS

The crucial questions for us to decide are

- (1) whether the rates assailed are unreasonable per se, or
- (2) unjustly discriminatory.

Section 325 of the Railway Act empowers us as follows:

"The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act."

and where a complainant alleges unreasonableness the burden falls upon him to offer proof thereof. Here, the applicant places its allegation of unreasonableness solely upon the grounds that a charge is made for a service not rendered. This allegation is denied by the railways chiefly on the grounds that the rate charged is lower than would normally apply and was granted only to equalize the lake-port mills with the interior mills.

The facts here involved do not disclose any other grounds upon which the applicants' allegations can rest, and as the rate assailed is lower than the normal rate I do not think that the applicants' contention on this point can be substantiated. I am therefore of the opinion that the complaint as to unreasonableness per se has not been justified.

Dealing now with the second phase of this question, once it is admitted that the rates assailed are to some extent discriminatory one must inquire whether under Section 316, ss. 3(c) such advantage amounts to an undue or unreasonable preference. Likewise as a corollary since the ex-lake flour is being carried from the applicants' mills and the inland mills under substantially similar circumstances and conditions, we must determine whether the prevailing tariffs constitute an unjust or undue disadvantage to the lake mills within the meaning of Section 317 of the Railway Act. Section 317 removes all doubt that the question whether in determining if an advantage or disadvantage is unjust or undue is a question of fact or law, and the section states that the Board may determine such issue as a question of fact.

In seeking to determine as a question of fact whether a discrimination is unjust or undue we should seek to describe it. According to the applicants their complaint is that they are being charged by the railways for a service which the latter do not perform, but putting it conversely it might be said that the railways made the flour rate from the inland mills $1\frac{3}{4}$ cents lower than the equivalent rate from lake mills and then added the same charge of $1\frac{3}{4}$ cents for stop-off services, so that in effect the railways were rendering stop-off services to the inland mills for nothing. Does this type of free service constitute an undue or unreasonable preference?

The Board has held that free switching allowed by the C.N.R. and C.P.R. to elevators in two groups at Fort William and Port Arthur did not constitute unjust discrimination against the applicant which owned an elevator in a third group. *Fort William Elevator Co. vs. C.N.R.*, 40 C.R.C. 251. In the above case the then Chief Commissioner Fullerton said *inter alia* at page 258 of the report:

"It is not all 'preference or advantages' which fall within the inhibitions of the statute; only such as are undue or unreasonable. No definition of what constitutes undue or unreasonable preference or advantage is given in the statute, nor does the statute give us any guide for its determination. The report cases help us very little. The fact that there is in a given case a preference or advantage does not of itself show that such preference or advantage is undue or unreasonable."

The above case was affirmed, see 46 C.R.C. 125, and re-affirmed on a further application, see 48 C.R.C. 197.

Like discriminations can be found elsewhere in the rate structure. The applicants presently enjoy a preference to a similar extent to that of the one complained of with respect to the export trade in which it specializes in as much as it can ship grain and flour to New York more advantageously than is the case with the inland mills, and the advantage so enjoyed in terms of money is equivalent to the advantage which the inland mills have and which is the subject of the present complaint, and I assume the railways accord this advantage for similar reasons (*mutatis mutandis*) as the preference with which we are now concerned.

It is a difficult matter in cases such as this to determine the transitional point at which what would otherwise amount to simple discrimination is converted into what would constitute unjust discrimination. In this connection we might well ask ourselves if the discrimination is more than is necessary to attain the objective sought and is the latter of a substantive or frivolous nature, and what is the end result.

The justification given by the railways for maintaining the existing rates as between the applicants' mills and the interior mills I consider is not capricious but is based within reasonable limits on understandable self-interest, and I think taking into account all the circumstances and particularly the fact that in the end the flour from the inland and lake mills with which we are concerned reaches its destination at equal rates, it cannot be looked upon as creating undue preference or unjust discrimination.

A subsidiary contention of the applicants remains. They say that those tariffs which provide for 34 cents plus $1\frac{3}{4}$ cents are an indication that the railways are charging for a service which they do not render because $1\frac{3}{4}$ cents corresponds with the stop-off charges made to the inland mills. The railways on the other hand urge that not all the tariffs involved are couched in the above terms and that this manner of setting rates is a well recognized method which is found spread throughout the rate structure. Because in order to equalize the lake-port and interior millers the railways have so published the rates to maintain such equality by a means of two factors instead of a through rate composed of a single factor is not important. I am of the opinion that the method of publishing the rate is not an appropriate criterion of whether the charge is imposed for a service which is not performed.

While, from a monetary point of view, a difference of $1\frac{3}{4}$ cents per 100 pounds is not exorbitant, I realize that such an amount may be sufficient to divert business from one channel into another; hence while the railways' flour rates work out to parity at Montreal whether from lake-port mills or mills which utilize milling-in-transit, I would have to be persuaded that some apparent

element of either unreasonableness or unjust discrimination exists to warrant disrupting the parity and I do not consider that the applicants have made out a case to warrant a decision in their favour.

The evidence and argument have been chiefly directed to the domestic ex-lake rates to Montreal, which, of course, is only by way of example. The conclusions however which we have reached concerning the ex-lake rates to Montreal are, we consider, equally apposite with respect to export rates and rates to United States points mentioned in the application. I would consequently dismiss the application.

The subject matter of the present complaint has been allowed to remain unchallenged for many years, nevertheless I regret that it has taken us nearly six months to reach a decision in this case, but it was one concerning which much consideration was necessary. Moreover as the Board in the interval has been called upon to deal with a succession of lengthy and high priority applications we have been unable to give the matter in hand the consecutive thought which it required.

December 19, 1952.

JOHN D. KEARNEY.

I concur:

A. SYLVESTRE.

I concur:

H. B. CHASE.

ORDER No. 80463

In the matter of the application of Maple Leaf Milling Company Limited, and Robin Hood Flour Mills, Limited, re rates on grain products, carloads, from Port Colborne and Humberstone, Ontario, milled from grain received ex-water:

File No. 8641-88

FRIDAY, the 19th day of December, A.D. 1952.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sitting held in Ottawa, Ontario, on June 23 and 24, 1952, in the presence of Counsel for the Maple Leaf Milling Company, Limited, Robin Hood Flour Mills, Limited, the Canadian National Railways, the Canadian Pacific Railway Company and The Toronto, Hamilton and Buffalo Railway Company, and representatives of the Maple Leaf Milling Company, Limited, Robin Hood Flour Mills, Limited and Quaker Oats Company, Limited—

It is ordered that the application be, and it is hereby, dismissed.

JOHN D. KEARNEY,
Chief Commissioner.

JUDGMENT

In the matter of the application of the Great Northern Railway Company under Sections 51 and 259 and all other relevant sections of The Railway Act for an Order directing the City of Vancouver to assume the Applicant's share of the cost of maintaining and protecting the highway crossing over the tracks of the Canadian Pacific Railway Company between Raymur and Campbell Avenues in the City of Vancouver, British Columbia, and amending Order No. 47259, dated August 25, 1931, accordingly.

File No. 572·24

HEARD at Vancouver, B.C., March 13, 1953.

Before:

FRANK M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Appearances:

F. D. PRATT, for the Great Northern Railway Company.

A. J. F. ALBERT, for the City of Vancouver.

J. G. ALLEY, for the Canadian Pacific Railway Company.

MACPHERSON, F. M., *Commissioner:*

When the crossing at this point came to the attention of the Board, much of the property between the Canadian Pacific Railway tracks and the waterfront of Vancouver Harbour was held in the name of the Vancouver Harbour Board, but in 1936 the National Harbours Board took over and the property from that date has been held in the name of His or Her Majesty and administered by the National Harbours Board.

In 1911 the Vancouver, Victoria and Eastern Railway (later taken over by the Great Northern Railway Company) acquired some property in the vicinity of the present crossing from the Vancouver Harbour Board and constructed a dock. To obtain access to this property from Powell Street, which runs parallel to the south side of the Canadian Pacific Railway tracks, they made application to the Board of Railway Commissioners to have a crossing established. By Board's Order No. 14869 dated September 1, 1911, they were authorized to construct and maintain at their own expense a crossing in the nature of a farm crossing at a point between Raymur and Campbell Avenues over the Canadian Pacific Railway tracks, the matter of protection to be deferred and to be considered at a later date. This crossing was at the exact location of the present crossing of the railway under discussion.

In 1931, after investigation by Board's engineers, it was decided that protection by watchmen should be approved. All parties concerned agreed that this crossing should be declared a public crossing or at least none of the interested parties objected at the time to the issuance of Order No. 47259 dated the 25th day of August, 1931, which authorized the City of Vancouver to construct and maintain a highway crossing over the tracks of the Canadian Pacific Railway between Campbell and Raymur Avenues south of Powell Street, subject to the standard regulations of the Board affecting highway crossings, and directed that stop signs be placed at each side of the Canadian Pacific Railway, that the Vancouver Harbour Commission appoint a watchman at the said crossing during the hours of 7 a.m. to 7 p.m., and that the cost of constructing and maintaining the said crossing, of placing "Stop" signs, and of maintaining the said watchman be divided equally among the City of Vancouver, the Vancouver, Victoria and Eastern Railway and Navigation Company, and

the Vancouver Harbour Commission. Subsequent Orders have issued changing the hours of watchman as seemed necessary due to changed train schedules but this is a matter not seriously affecting the present application. The main items of the above Order are still in effect and until recently no complaint has been made to the Board to have the allocation of costs changed.

Previous to 1931, traffic over this crossing was comparatively light. Evidence was given that in May, 1931 the traffic was approximately 110 vehicles per day, while in 1952, the traffic taken over a three-day period gave an average of approximately 1900 vehicles per twenty-four hours, the great bulk of the traffic taking place during working hours.

In 1911 when the Vancouver, Victoria and Eastern Railway established their dock at this point they were the only industry using the crossing which was then established. Since that date some twenty-three business firms have established warehouses and places of business in the area and use this crossing. Most of these business firms, if not all, lease property from the National Harbours Board and as the traffic counts indicate, were established in this area since 1931.

There is a paved road leading west from this crossing on the north side of the Canadian Pacific Railway to Heatley Avenue, approximately 1600 feet in length, which is maintained for the greater part of its length by the National Harbours Board, but a small portion by the Great Northern Railway. It was thought recently that it might be possible to close the Campbell Avenue crossing and divert the traffic to Heatley Avenue but on further investigation it was found that this would cause considerable congestion in the already congested area between the Canadian Pacific Railway and the harbour. The business firms established in this vicinity have built up the area on the assumption that Campbell Avenue would remain as a public thoroughfare and the location of the various structures doesn't lend itself to change. All interested parties at the time this matter was investigated were of the opinion that this crossing should not be closed and, in fact, could not be closed without creating a very serious congestion of traffic in the vicinity of the crossing.

Previous to the year 1936, the City of Vancouver had no power to assess taxes against property held by the Vancouver Harbour Commission. However, as a result of an agreement between provincial and federal authorities in 1937 and arising out of the agreement and the terms and conditions laid down, the Vancouver Tax Consolidation Act, 1936, Amendment Act, 1937, was passed by the Legislature, which gave the City power to tax these lands. The taxes collected by the City of Vancouver from business firms located north of the Canadian Pacific Railway and served by Campbell Avenue crossing in 1952, totalled \$40,650. One of the conditions under which the City was permitted to tax property on the Vancouver harbour and waterfront was that they assume full responsibility for fire and police protection and other usual city services. These were among conditions laid down by federal authorities relating to the taxing of property under federal control or held in the name of His or Her Majesty.

In 1931 when Board's Order 47259 dated August 25, 1931 issued, traffic over the crossing was very light and only served the facilities of the Vancouver, Victoria and Eastern Railway and Navigation Company and the property of the Vancouver Harbour Commission. These conditions have greatly changed, especially since 1936 when further business firms were established in the area until the present time when this road gives entrance to some twenty-three business firms with facilities located between the Canadian Pacific Railway tracks and the harbour front, all using this crossing which now indicates a traffic count of approximately 1900 vehicles per day.

Counsel for the City contended that the crossing is not an integral part of the street system of the City, and that consent Order No. 47259 stands or falls as a whole and if it is to be changed the parties should be restored to their pre-order position.

As to the nature of the crossing, there is no doubt that it is a crossing of a railway and a highway within the meaning of the Railway Act and that Order No. 47259 authorized the City of Vancouver to construct and maintain it as a highway crossing in accordance with the Standard Regulations of the Board Affecting Highway Crossings. That being so, the Board has jurisdiction to make such order as to the protection, safety and convenience of the public as it deems expedient and to order by whom the cost and expenses shall be paid. Maintenance is a present and continuing necessity and I consider that the Board has ample power to make such order as is expedient from time to time in respect of the cost and expenses of maintaining the crossing and watchmen.

In view of the changed present conditions it is the opinion of the Board that Paragraph 4 of Board's Order 47259, dated August 25, 1931, should be amended by striking out the words "and of maintaining the said watchmen be divided equally among the City of Vancouver, and Vancouver, Victoria and Eastern Railway and Navigation Company, and the Vancouver Harbour Commissioners" and substituting therefor the words "and maintaining the said watchmen be borne and paid as follows: two-thirds by the City of Vancouver and one-third by National Harbours Board."

An Order will go accordingly. The new division of costs shall, of course, not apply to costs incurred prior to the date of the said Order.

APRIL 15, 1953.

FRANK M. MacPHERSON.

I concur:

O. A. MATTHEWS.

ORDER No. 81182

In the matter of the application of the Great Northern Railway Company under Sections 51 and 259 and all other relevant sections of The Railway Act for an Order directing the City of Vancouver to assume the Applicant's share of the cost of maintaining and protecting the highway crossing over the tracks of the Canadian Pacific Railway Company between Raymur and Campbell Avenues in the City of Vancouver, British Columbia, and amending Order No. 47259, dated August 25, 1931, accordingly.

File No. 572·24

WEDNESDAY, the 15th day of April, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MacPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the matter at a sitting of the Board at Vancouver on March 13, 1953, in the presence of Counsel for the Great Northern Railway Company, the City of Vancouver and Canadian Pacific Railway Company—

It is ordered that Paragraph numbered 4 of Order No. 47259, dated August 25, 1931, be amended by striking out the words "and of maintaining the said watchmen be divided equally among the City of Vancouver and Vancouver, Victoria and Eastern Railway and Navigation Company, and the Vancouver Harbour Commissioners" and substituting therefore the words "and maintaining the said watchmen be borne and paid as follows: two-thirds by the City of Vancouver and one-third by National Harbours Board."

JOHN D. KEARNEY,
Chief Commissioner.

OTTAWA, September 11, 1952.

CIRCULAR NO. 273

POSTING OF TARIFFS—File 39362

Attention is directed to the amendments to the Railway Act, enacted December 21, 1951, whereby Section 342 thereof was repealed with the exception of subsection 2, reading:—

“The company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway, for inspection during business hours.”

Similarly subsection 6 of Section 323 was amended and now reads:

“The Board may, with respect to any tariff of tolls, make regulations fixing and determining the time when, the place where, and the manner in which, such tariffs shall be filed, published and kept open for public inspection.”

Pursuant to the powers thus conferred upon the Board by the said subsection, the following regulations are made.

Posting of Tariffs

1. The companies subject to the Railway Act 1919, shall keep on file in an orderly manner and open to public inspection during business hours a copy of its tariff schedules at the following places respectively:—

- | | | |
|--|---|---|
| (a) Headquarters | } | All tariff schedules. |
| Regional offices | | |
| Division offices | | |
| District offices | | |
| (b) Agency offices or stations, | } | All tariff schedules applying from or to such offices or stations. |
| except as provided in (c) | | |
| (c) Freight Agency Stations | } | Class rate tariffs applying from or to such stations, and such other freight tariff schedules as are frequently used. |
| serving a population of 10,000 or less | | |

2. Freight rate information that is required for occasional shipments, for which freight tariff schedules are not posted at the freight station concerned, will be secured by the agent from the Freight Traffic Official in charge of the territory. In the event of any freight tariff schedules not on file at a freight station being required on account of frequent movement, or if any shipper or consignee requests that a freight tariff schedule be posted at a particular station, such freight tariff schedule shall immediately be placed on file at that freight station.

3. Tariff schedules for posting as hereinbefore provided shall be forwarded to the said offices and stations concurrently with the forwarding of such tariff schedules to the Board for filing.

4. A notice in large type shall be posted up in a prominent place at each office or station where tariff schedules are on file specifying where such tariff schedules may be examined, and the agent or person in charge, shall produce, on request, such tariff schedules for inspection.

5. The term “Tariff Schedules” means a tariff, or a supplement, or a page of a loose-leaf tariff, such as: basis books, car capacities, classifications, demurrage rules and charges, distance tables, station lists, special service rules and charges, storage charges, terminal and transit arrangements, and any publication containing tolls, absorptions, rules, regulations, or any complementary publications affecting the tolls to be charged.

By Order of the Board,

E. R. HOPKINS,
Secretary.

OTTAWA, September 22, 1952.

CIRCULAR No. 274

AMENDING CIRCULAR 215 AND SUPPLEMENT No. 1

File No. 35618—HEAD-ON COLLISIONS

Dear Sir:—

Referring to the Board's Circular No. 215 and Supplement No. 1 thereto dated December 12, 1927 and April 13, 1928, respectively, in respect to the reversal of rights to track between passenger trains at the meeting point.

Effective September 28, 1952 the provisions of Circular No. 215 and Supplement No. 1 thereto are rescinded.

By Order of the Board,

E. R. HOPKINS, B.T.C.
Secretary.

OTTAWA, April 18, 1953.

AMENDMENT No. 2 TO CIRCULAR No. 272

File 45464·1—REDUCTION IN FREIGHT RATES BETWEEN POINTS IN
EASTERN CANADA AND POINTS IN WESTERN CANADA, PUR-
SUANT TO SECTION 18, CHAPTER 22, 15-16 GEORGE VI.

The Board having concluded that the aggregate cost of maintaining the stipulated trackage of the Canadian Pacific Railway Company and of the Canadian National Railways will continue to exceed the sum of seven million dollars annually:

Circular No. 272, dated April 16, 1952, as amended, is hereby further amended by cancelling therefrom paragraph numbered 3, on page 3, and substituting the following in lieu thereof:

"3. That subject to paragraphs numbered 1 and 2 hereof, carload and less than carload freight rates which but for the provisions of this circular, would be in effect, shall be reduced effective May 1st, 1953, by the aggregate of the following:

- i. 3·5 per cent.
- ii. 9·5 cents per 100 pounds."

By Order of the Board,

E. R. HOPKINS,
Secretary.

GENERAL ORDER No. 778 *

In the matter of cleaning of stations and disinfecting of passenger cars:

File No. 1708-3

MONDAY, the 5th day of January, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that every railway company subject to the jurisdiction of the Board be, and it is hereby, directed and required:

(1) To maintain all its passenger stations, waiting rooms, toilet and lavatory facilities, in a clean and sanitary condition properly ventilated, heated and lighted; to disinfect said toilet and lavatory facilities not less frequently than once per week.

(2) To maintain all its passenger carrying cars, including the toilet and lavatory facilities, smoking and other compartments of such cars, in a clean and sanitary condition, properly ventilated, heated and lighted; to disinfect said toilet and lavatory facilities not less frequently than once per week.

(3) To adopt a By-law (if no such By-law has already been adopted), under Section 290 of the Railway Act, prohibiting spitting in passenger stations, waiting rooms, toilet and lavatory facilities, or other premises of the company and in or upon the platforms of cars in which passengers may travel, except in receptacles suitable for the purpose, and to provide a penalty for breach thereof; and to post up and maintain in a conspicuous place in its passenger stations and in such places in the cars in which passengers may travel, where deemed necessary, a notice of such By-law and the penalty for breach thereof; such notices in the Province of Quebec to be printed in French and English.

(4) To provide and maintain cuspidors and ash receptacles in such places in its passenger stations and passenger cars, where deemed necessary; and to have such cuspidors emptied and washed clean whenever necessary, but at least once in every forty-eight hours.

(5) To properly clean all passenger equipment which is regularly in service, at least once every thirty days.

(6) To take all necessary precautions to see that cases of known contagious diseases are reported immediately to the responsible railway officials, and to clean thoroughly and disinfect all cars known or suspected to have carried any passenger suffering from contagious disease.

(7) (a) To transport tuberculosis patients in the "closed space" upon railway cars, e.g., compartment.

(b) to refuse to accept as a passenger a patient suffering from tuberculosis unless such patient shows satisfactory evidence that he has been duly instructed by appropriate medical authorities regarding the usual precautions to prevent dissemination of the disease, including the collection and disposal of sputum, and is provided with:

- (i) a sputum cup made of impervious material and so constructed as to admit of being tightly closed when not in use;
- (ii) a sufficient supply of gauze, paper or similar articles of proper size to cover the mouth and nose while coughing or sneezing;
- (iii) a heavy bag or other type of container for receiving the soiled gauze, paper or similar articles; and the patient undertakes to arrange for the destruction of the above articles by burning or disinfection.

(8) To ensure, where a tuberculosis patient is accepted as a passenger, that:

(a) all meals are supplied in the patient's "closed" accommodation, and that all dishes, cutlery, etc., so used, are kept in the accommodation until the completion of the trip;

(b) all such dishes, cutlery, etc., are collected by the railway attendant at the completion of the trip, and are kept segregated from the other dishes until they are properly cleansed and subjected to live steam sterilization before being put into use again;

(c) all bed clothing, including blankets and linen, are removed and laundered before again being used;

(d) accommodation quarters are damp cleaned with a detergent solution containing a disinfectant before re-occupancy;

(e) wherever practicable, areas of the duct system of air conditioning units on the railway car used, are thoroughly cleaned after occupancy, but fumigation of such air conditioning systems is not considered necessary.

And it is further ordered that General Order No. 35 dated May 7, 1909, and Circular No. 171, dated September 25, 1918, be, and they are hereby, rescinded.

JOHN D. KEARNEY,

Chief Commissioner.

*This General Order was omitted from Vol. No. XLII dated January 15, 1953.

GENERAL ORDER No. 779 *

In the matter of Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service including Specifications for Shipping Containers:

File No. 1717-B

FRIDAY, the 9th day of January, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That, effective June 1, 1953, the Regulations for the Transportation of Explosives and Other Dangerous Articles by Rail Freight and Rail Express Service including Specifications for Shipping Containers on file with the Board under file No. 1717-B marked "C" and certified by the Secretary of the Board be, and they are hereby, authorized for the observance by railway and express companies subject to the jurisdiction of the Board which accept explosives and other dangerous articles for carriage.

2. That, upon the coming into force of the said regulations, General Orders Nos. 678 dated December 3, 1945, No. 696 dated December 27, 1946, No. 718 dated July 16, 1948, No. 722 dated January 21, 1949, No. 724 dated April 29, 1949, No. 727 dated August 12, 1949, No. 738 dated February 8, 1950, No. 746 dated October 6, 1950, No. 756 dated May 11, 1951, No. 757 dated May 11, 1951, No. 758 dated May 31, 1951, No. 761 dated August 20, 1951, No. 762 dated August 20, 1951, No. 767 dated December 3, 1951 and No. 777 dated March 27, 1952, be, and they are hereby, rescinded.

A. SYLVESTRE,

Deputy Chief Commissioner.

*This General Order was omitted from Vol. XLII dated January 15, 1953.

ORDER No. 81007

In the matter of the application by The Bell Telephone Company of Canada, herein referred to as the "Applicant," under sections 34, 348(3) and all other relevant sections of The Railway Act for the revision and approval of the general terms and conditions upon and under which the Applicant shall furnish to the public the telephone service and equipment which it provides:

File No. 29159-699

WEDNESDAY, the 11th day of March, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading what is filed in support of the application and hearing Counsel for the Applicant—

It is ordered

1. That the General Regulations of the Applicant attached hereto marked "A" are hereby approved and are prescribed as the terms and conditions upon and under which the Applicant shall furnish to the public the telephone service and equipment described in its effective Tariffs from time to time filed with and approved by the Board.

2. That the said General Regulations shall come into force on the 15th day of April, 1953, and be incorporated in the Applicant's Tariffs.

3. That leave be and it is hereby granted to the Applicant to publish this Order and the said General Regulations in three consecutive weekly issues of the *Canada Gazette* pursuant to section 50 of The Railway Act, R.S.C. 1927, chapter 170.

HUGH WARDROPE,
Assistant Chief Commissioner.

"A"

GENERAL REGULATIONS

Governing the furnishing of telephone service and equipment by The Bell Telephone Company of Canada

INTERPRETATION

RULE 1.—In these Regulations,

- (a) "Board" means The Board of Transport Commissioners for Canada,
- (b) "Company" means The Bell Telephone Company of Canada,
- (c) "Customer" means a person for whom telephone equipment has been installed or provided and for whom telephone service has been furnished by the Company, upon his application or request, in premises designated by him, and a person who has subscribed for and obtained Service Station System Service from the Company,
- (d) "Initial service period" means the stipulated minimum period of time for which the Company will furnish the services or equipment applied

for, and for which the Company's charges must be paid, whether or not the service be used by the customer for the whole of such period. It commences from the date of establishment of service or of provision of the equipment,

- (e) "Person" includes a partnership, firm, body corporate or politic, government or department thereof and the legal representatives of such person,
- (f) "Tariffs" means the Tariffs of the Company filed with and approved by the Board from time to time in force.

GENERAL

RULE 2.—

- (a) Telephone service and equipment offered by the Company's Tariffs when provided by the Company, shall be furnished upon and subject to the terms and conditions contained in
 - (i) these Regulations,
 - (ii) all the applicable Tariffs of the Company, and
 - (iii) the written application (if any) to the extent that it is not inconsistent with these Regulations or said Tariffs,
 all of which shall be binding on the Company and its customers.
- (b) Any change in these Regulations or in the Company's Tariffs shall contemporaneously with the effective date thereof effect the modification of the obligations of the Company and its customers towards each other to conform thereto. A change in rates is applicable on and from its effective date notwithstanding the fact that the customer may have been billed and/or have paid in advance at the previous rate.

RULE 3.—The Company does not transmit messages but merely provides the service and equipment which enable those entitled to use them so to do.

APPLICATION FOR SERVICE

- RULE 4.—(a) Applications for local service (i.e. Exchange and Service Station System Service) and for private line and mobile telephone service or for additional service or equipment in connection with service already established may be made orally or shall be in writing if the Company so requires.
- (b) The Company shall not be obliged to furnish telephone service to persons who are indebted to it.

INITIAL SERVICE PERIOD

RULE 5.—The initial service period for all standard local services and for private line and mobile telephone service and equipment furnished by the Company shall be one month, except where otherwise stipulated in the Tariffs of the Company; Provided, however, that the Company may stipulate an initial service period longer than one month.

- (a) where special construction is necessary for the provision of the service,
or
- (b) where special non-standard equipment or special assemblies of equipment are installed.

SERVICE AND EQUIPMENT

RULE 6.—(a) Subject to the provisions of the Company's Special Acts of Incorporation, the Company's obligation to furnish telephone service is dependent upon its ability to secure and retain without expense suitable rights-of-way or rights of access for the construction and maintenance of the necessary pole lines, circuits and equipment. Where the Company is unable to do so or when special construction work is necessary, or any unusual expense must be incurred, the Company may require the applicant or customer to pay the cost thereof.

(b) Where the Company has not the necessary equipment to furnish the service requested, the receipt of an application for service and of an advance payment shall not bind the Company to furnish such service, and if the service is not furnished all money paid therefor by the applicant shall be refunded by the Company.

RULE 7.—Except where otherwise stipulated in its Tariffs or by special agreement, the Company shall provide and install all equipment and wiring required to furnish service and shall be and remain the owner thereof, and shall bear the expense of ordinary maintenance and repairs.

RULE 8.—In the case of damage to or destruction of any of the Company's equipment or wiring which is not due to reasonable wear and tear, the Company shall have the right to require the customer to pay the cost of restoring it to its original condition or of replacing it. Upon termination of service all of the Company's equipment and wiring shall be returned to the Company in good condition, reasonable wear and tear excepted.

RULE 9.—The Company's equipment and wiring shall not be rearranged, disconnected, removed or otherwise interfered with, nor shall any equipment, apparatus, circuit or device which is not provided by the Company be connected with, physically associated with, attached to or used so as to operate in conjunction with the Company's equipment or wiring in any way, whether physically, by induction or otherwise, except where specified in the Tariffs of the Company or by special agreement. In the event of a breach of this Rule, the Company may rectify any prohibited arrangement or suspend and/or terminate the service as provided in Rule 35.

RULE 10.—The Company may enter into agreements with railway companies or other customers whereby they may be required to install and/or maintain telephones, telephone equipment or lines provided by the Company, when such telephones and equipment are located on railway premises or in other places involving unusual hazards, or when it is convenient to both parties to do so, and assume all risks and liability incident to the installation, maintenance and operation thereof. Such agreements may provide for such customers being compensated by the Company for so doing by means of a monthly allowance to be set off against the Company's standard monthly rates.

RULE 11.—The agents and employees of the Company shall have the right to enter the premises on which telephone service is furnished or equipment is installed, at any reasonable hour, for the purpose of installing, inspecting, repairing or removing its equipment and wiring and collecting receipts from public and semi-public telephones.

RULE 12.—Electric energy necessary for the furnishing of telephone service shall be provided by the Company, except that the customer shall arrange and pay for a local supply of suitable commercial electric energy, with outlet, when required for the operation of a rectifier or other equipment provided for him.

RULE 13.—The customer shall notify the Company promptly in writing whenever alterations or new construction on premises in which telephone service or equipment is furnished him necessitate changes in the Company's equipment or wiring.

TELEPHONE NUMBERS AND SERVICE ARRANGEMENTS

RULE 14.—The customer shall have no property right in the telephone number assigned to his service, nor any right to continuance of service through any particular central office, and the Company may change either or both as it considers necessary.

RULE 15.—The Company may, at any time, change base rate, exchange and local service areas. Customers affected by such changes have the right to terminate their service if they so desire under Rule 33(d).

USE OF SERVICE

RULE 16.—Flat rate service and business message rate service furnished by the Company may be used only by its customer and by certain persons associated with him at the place in which the service in question is furnished, namely, his employees and agents, members of his household, and occupants of a boarding or rooming house, club, institution or similar place operated by the customer. Use of the service by the following is permitted upon approval by the Company:—

- (a) Joint users, in accordance with the Company's Tariffs.
- (b) Persons temporarily sub-leasing the customer's residential premises.
- (c) Persons for whose use service is applied for by the customer, such as his employees or relatives, subject to the provisions of Rule 18.

All such use of the service is subject to the regulations contained in the Company's Tariffs governing the classification of the service as business or residence.

RULE 17.—The Company may refuse to furnish flat rate service or business message rate service at locations where the telephone is available for use by persons other than those referred to in the preceding Rule.

RULE 18.—No payment may be exacted, directly or indirectly from any person by any party other than the Company for the use of any of the Company's services, except where otherwise stipulated in the Company's Tariffs or by special agreement.

RULE 19.—No customer shall use the Company's service or permit it to be used so as to prevent a fair and proportionate use thereof by others; nor shall any customer cause or induce others to so use the service. In order to ensure fair and proportionate use, the Company may limit the use of its service as necessary and, when the use by any customer of party line service unduly interferes with the use of any other service on the same line, the Company may require such customer to apply for a higher grade of service, if such is available, or may terminate his service.

RULE 20.—The use of the Company's service or equipment for annoying any person and the use of offensive language while using or conversing over the Company's equipment are prohibited.

RULE 21.—In the case of mobile telephone service, the customer's use of the radio transmitter on the mobile unit is at all times subject to the control of the operator at the base station of the Company.

RULE 22.—The customer or other calling party is solely responsible for establishing his identity and that of the person or persons at the called station or stations in the course of each message.

TELEPHONE DIRECTORIES

RULE 23.—Telephone directories published by the Company are and remain the property of the Company. No person shall deface or mutilate them or affix labels thereto. No person shall use any binder, holder or auxiliary cover except such as may be supplied by the Company in connection with any directory. No person shall publish or reproduce the contents of the Company's directories in any form without the written consent of the Company.

RULE 24.—The Company supplies customers without additional charge with such directories as it considers necessary for satisfactory service. The Company may make a charge for directories supplied to customers in excess of reasonable requirements or in replacement of those lost, destroyed or mutilated. Directories shall be returned to the Company, if requested, upon termination of service, or upon issuance of new directories, in as good condition as when supplied, reasonable wear and tear excepted.

PAYMENT OF RATES AND CHARGES

RULE 25.—At the time of application for service, the applicant shall make an advance payment covering the service connection charge and installation charge, if any, together with one month's charge for all service and equipment applied for; Provided, however, that the Company may waive the collection of advance payments from applicants or customers whose credit is satisfactorily established with the Company.

RULE 26.—An applicant or customer whose credit is not satisfactorily established with the Company may be required to make a further advance payment of an amount which the Company considers sufficient to cover not more than six months' charges for all service including anticipated message tolls and for equipment. Charges for service rendered are applied against such advance payment. If, in the opinion of the Company, the customer's net credit balance is at any time insufficient to cover the estimated service charges referred to, the Company may require a further advance payment or suspend and/or terminate service as provided in Rule 35.

RULE 27.—Rates and charges which are quoted on a monthly basis shall be payable by the customer monthly in advance. Charges for message toll and messenger service, coin box service, and local messages in excess of the number provided for under the fixed monthly rate for business message rate service, shall be payable by the customer monthly or upon demand by the Company. Service connection, installation and like charges shall be payable in accordance with these Rules and the appropriate sections in the Company's Tariffs.

RULE 28.—All charges incurred by the customer or for which he is responsible shall be payable at the Company's business offices or at agencies duly authorized to receive such payments.

RULE 29.—Failure to receive a bill showing the amount owing by the customer to the Company shall not relieve the customer from the responsibility of making prompt payment of such amount to the Company.

RULE 30.—The customer shall be liable to the Company for charges for all calls originating at his telephone regardless of who may originate such calls, and for all calls received at his telephone the charges for which are accepted by any person receiving such calls regardless of who may accept such charges. The Company may, if it so elects, collect all or any part of such charges from the person placing the call or who may otherwise be responsible for the charges incurred.

RULE 31.—If objection in writing is not received by the Company within thirty days after a statement of account is rendered, such statement shall be deemed to be correct and binding upon the customer.

TERMINATION OF SERVICE BY CUSTOMER

RULE 32.—Service may be terminated after the expiration of the initial service period upon reasonable advance notice to the Company. The customer shall pay all charges due for service which has been furnished.

RULE 33.—Service may be terminated prior to the expiration of the initial service period upon payment of all charges due for service which has been furnished, under the following conditions:—

- (a) In the case of death of the customer, or of destruction, damage or condemnation of the customer's premises by fire or other cause beyond his control which necessitates abandonment of such premises, effective from the date on which the Company is advised thereof.
- (b) In the case of chargeable directory listings and joint use of service, when the listed party or joint user dies or becomes a customer to exchange service, effective from the date on which the Company is advised of such death or the date of commencement of such exchange service.
- (c) When the customer's service is taken over without lapse by a new customer at the same location or is superseded by another service of the same customer at the same or another location, effective from the date of the change; except that charges due for the balance of the service period are to be paid for any of the original service and equipment which are discontinued at the time of the change.
- (d) When the customer's service is affected by a change in the base rate, exchange or local service area, upon reasonable advance notice to the Company.

RULE 34.—Service may be terminated prior to the expiration of the initial service period upon reasonable advance notice in writing to the Company and upon payment of termination charges as hereinafter stated, in addition to all charges due for service which has been furnished.

- (a) In the case of service or equipment for which the initial service period is one month, the charges due for the balance of the month shall be paid.
- (b) In the case of service or equipment for which the initial service period is in excess of one month at the same location, the termination charge shall be based upon the proportion which the unexpired portion of the initial service period bears to the full initial service period. Such charge shall be computed by applying this proportion to the sum of the cost of installing standard equipment (or the cost of providing and installing special assemblies of equipment) plus any loss on account of equipment, plus the cost of removal less installation charges paid. If installation charges paid exceed the cost items specified, termination charges shall not be made but installation charges shall not be refunded.

- (c) In the case of chargeable directory listings and joint use of service, where the listing has appeared in a directory, the charges due to the end of the effective period of such directory shall be paid; except that when the customer's service is terminated or when the listed party or joint user moves to another location, the charges shall be paid only to the date of termination of such service or the date of the move, subject to a minimum charge equal to that for one month.

TERMINATION OF SERVICE BY COMPANY

RULE 35.—In the event of default on the part of the customer in making payment of any amount owing by him to the Company under any of its Tariffs or in complying with these Regulations or the provisions of the Company's Tariffs which govern the furnishing of the service and equipment, or using the service or equipment in contravention thereof, the Company may, without notice, suspend any or all of the services which it furnishes to the customer, until such amount has been paid and all violations have ceased or been remedied, or may terminate any or all of the services furnished the customer either without suspension or following suspension of service. Such action by the Company shall not affect the customer's liability for the payment of all amounts owing by him to the Company. The Company shall make a daily pro rata allowance based on the monthly charge for the services suspended.

LIMITATION OF COMPANY'S LIABILITY

RULE 36.—The Company does not guarantee uninterrupted working of its service and/or equipment. It shall not be liable for damages resulting from mistakes, omissions, interruptions, delays, errors in transmission, defects in transmission, failures or defects in equipment or from any other cause; Provided, however, that in any such case the Company shall on request make a refund of charges proportionate to the length of the interruption to the service; but in the case of message toll service and short period private line telephone service, such refund shall be computed only from the time the Company is advised of the interruption.

RULE 37.—The Company shall not be liable for damages arising from errors or omissions in its directory listings, information service, or reference of calls to another telephone number; Provided, however, that in the case of listings for which a specific charge applies, its liability for errors or omissions shall be limited to making a refund or cancellation of the charges computed at the monthly rate charged for each such listing for the period during which the error or omission continues.

RULE 38.—No liability shall attach to the Company by reason of the continuation of the customer's listing in a directory after the termination of his service.

RULE 39.—The Company shall not be responsible for the results of the publication of listings in its directories, nor will it be a party or be made a party to controversies arising between customers or others as a result of listings published in its directories.

RULE 40.—When equipment of one or more other companies is used in establishing connections to points not served directly by the Company, the Company shall not be liable for any act or omission of any other company.

RULE 41.—The Company shall not be liable for any defacement or damage to the customer's premises resulting from the Company's equipment and wiring

on such premises or from the installation, maintenance or removal thereof, except that the Company shall make good any damage caused by its negligence. In cases where the customer is not the owner of such premises, he shall indemnify and save the Company harmless from claims for such defacement or damage.

RULE 42.—In the case of mobile telephone service, the Company undertakes, in connection with signalling service, only to transmit a signal for the purpose of actuating a signal on the mobile unit, and accepts no responsibility for the transmission of further intelligence.

RULE 43.—The Company shall not be liable for damages for any accident or injury caused by a customer's vehicle in which a mobile telephone unit or supplementary apparatus provided in connection therewith is placed or installed.

RULE 44.—In cases where a circuit or circuits of the Company are connected with a circuit or circuits of a service station system as defined in the Company's Tariffs, the Company shall not be liable for any damages or injuries which may occur through lightning or other currents being carried over its circuits to the circuits of the service station system unless such damage was the result of the failure of the Company to comply with standard construction and maintenance practices.

RULE 45.—In the cases of telephotograph equipment and voice recording equipment connected to the circuits or equipment of the Company, the customer shall indemnify and save the Company harmless against and from all claims for libel, slander or infringement of copyright arising from the material transmitted over its equipment and/or recorded; against and from all claims for infringement of patents arising from combining or using apparatus or systems of the customer with the equipment of the Company; and against and from all other claims arising out of any act or omission of the customer in connection with equipment provided by the Company.

RULE 46.—In connection with the transmission of material by telephotograph equipment, no liability shall attach to the Company because of defects in the material transmitted, or because of the quality of the transmission, regardless of cause.

RULE 47.—Multi-party rural line service shall be furnished only in that portion of the exchange area which is outside the base rate area, unless otherwise specifically stated in the appropriate Individual Exchange Tariff of the Company.

RULE 48.—In exchanges in which both flat rate and message rate individual line services are furnished, only one type of business service, that is to say either flat rate or message rate service, shall be provided in any one premises, and only one message rate service shall be provided in any one premises.

ORDER No. 81315

In the matter of the application of the Canadian Pacific Railway Company, under Section 21 of The Transport Act, 1938, for approval of its Standard Mileage Freight Tariff C.T.C. No. E.5210:

File No. 42082·7

TUESDAY, the 5th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Standard Mileage Freight Tariff C.T.C. No. E.5210 of the Canadian Pacific Railway Company be, and it is hereby, approved, subject to complaint and investigation and determination as to rates or charges, as provided by The Transport Act, 1938.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81316

In the matter of Agreed Charge between certain railway companies, steamship companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, which agreed charge was approved by Order No. 80206, dated November 17, 1952:

File No. 40994·38

TUESDAY, the 5th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas International Waxes Limited has made application under sub-section 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its Petroleum Products from Clarkson's, Sarnia, Toronto and Agincourt, Ontario, and Montreal, Quebec, to stations and/or places in the Provinces of Alberta, Manitoba, Ontario and Saskatchewan, and has agreed to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the Agreed Charge approved by Order No. 80206, dated November 17, 1952, be, and it is hereby, fixed for the transport of Petroleum products as described in paragraph B of the said Agreed Charge, by the railway companies and steamship companies which are parties thereto, from Clarkson's, Sarnia, Toronto and Agincourt, Ontario, and Montreal, Quebec, to railway stations and/or destinations in the Provinces of Alberta, Manitoba, Ontario and Saskatchewan, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid, is to come into operation.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81341

In the matter of the application of Upper Lakes and St. Lawrence Transportation Company Limited, hereinafter called the "Applicant", for a licence under Section 10 of The Transport Act, 1938:

File No. 42076-22

THURSDAY, the 7th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 273 be issued to the Applicant licensing for the period of one year commencing January 15, 1953, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Brown Beaver</i>	160721	1892
<i>Charles R. Huntley</i>	148898	1760
<i>Grey Beaver</i>	160722	1892
<i>James Stewart</i>	148901	1760
<i>John S. Pillsbury</i>	149071	1754
<i>Judge Kenefick</i>	148430	1745
<i>Shelton Weed</i>	148453	1745

2. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River as far seaward as Prescott, Ontario:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Ralph Budd</i>	154862	4537

HUGH WARDROPE,

Assistant Chief Commissioner.

ERRATUM

Re Judgments, Orders, Regulations, and Rulings dated April 15, 1953, Vol. XLIII, No. 2, on page 37, lines 33 and 34 read in part: "suggesting that the Province of British Columbia *made* application to the Board with respect to this passenger differential". This should read: "suggesting that the Province of British Columbia *make* application to the Board with respect to this passenger differential".

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81276 Apr. 30—Approving under the Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 1202, as amended by Supplement No. 4, filed by the Dominion Atlantic Railway Company, under Sections 3 and 9.
- 81277 Apr. 29—Authorizing the C.P.R. to construct an extension across the road allowance at mileage 56-08, Sutherland Subdivision, Saskatchewan.
- 81278 Apr. 29—Authorizing the C.N.R. to make changes in the signals at Hyde, N.S.
- 81279 Apr. 29—Authorizing the C.N.R. to make changes in the signals at Odium Junction and Gort, N.B.
- 81280 Apr. 29—Authorizing the C.N.R. to make signals changes at Maccan, Belmont and Truro, N.S.
- 81281 Apr. 30—Permitting the removal of slow order at the crossing of the C.P.R. Company just east of the station, in the Province of Ontario.
- 81282 Apr. 30—Authorizing the Alberta Department of Highways to widen the road allowance at mileage 58-94, Brazeau Subdivision, Alberta.
- 81283 Apr. 30—Approving proposed location of storage tank, etc. of the Canadian Oil Companies Limited, near C.N.R. track at Moose Jaw, Saskatchewan.
- 81284 May 1—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the C.N.R. under Section 3.
- 81285 May 2—Authorizing the Westcoast Transmission Company Limited to construct a pipe line in the vicinity of the Village of Brookmere, and to the Town of Princeton to a point on the International Boundary in the vicinity of the Village of Osoyoos, British Columbia.
- 81286 May 1—Approving plan showing location of Trans Mountain Oil Pipe Line Company pipe line within the Kamloops Division of the Yale District, British Columbia.
- 81287 May 1—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the Cumberland Railway and Coal Company under Section 9.
- 81288 May 1—Approving under Maritime Freight Rates Act tolls published in Tariffs filed by the Cumberland Railway and Coal Company under Section 9.
- 81289 May 1—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Cumberland Railway and Coal Company under Section 9.
- 81290 May 1—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Cumberland Railway and Coal Company under Section 9.
- 81291 May 1—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Cumberland Railway and Coal Company under Section 9.
- 81292 May 1—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Cumberland Railway and Coal Company under Section 9.
- 81293 May 1—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Cumberland Railway and Coal Company under Section 9.
- 81294 May 1—Authorizing the British Columbia Department of Public Works to construct the Trans-Canada Highway across the right-of-way of the C.P.R. by means of an overhead bridge at mileage 26-1, Thompson Subdivision, British Columbia.
- 81295 May 2—Authorizing the Corporation of the Parish of St. Eustache, Province of Quebec to construct the public crossing over the line of the Canadian National Railways at mileage 14-65, Montfort Subdivision, Quebec.
- 81296 May 2—Permitting the removal of slow order at C.N.R. crossing of the 8th line near station at Oakville, Ontario.
- 81297 May 4—Approving pedestrian bell and danger sign installed at the crossing of T.H. & B. Railway Company at Stoney Creek Station Road, Ontario.
- 81298 May 5—Requiring the C.N.R. to install protection at the crossing of their railway and the road allowance at mileage 9-40, Dunnville Subdivision, Ontario.
- 81299 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81300 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81301 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81302 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81303 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81304 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81305 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81306 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.

- 81307 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81308 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81309 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81310 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81311 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81312 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81313 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81314 May 5—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Sydney and Louisburg Railway Company under Section 9.
- 81315 May 5—Approving Standard Freight Tariff C.T.C. No. E.5210 of the C.P.R. subject to complaint and investigation.
- 81316 May 5—Fixing Agreed Charge approved by Order No. 80206, dated November 17, 1952, for the transport of petroleum products by the Railway Company and steamship companies parties thereto, from Clarkson's, Sarnia, Toronto and Agincourt, Ontario, and Montreal, Quebec, to railway stations and/or destinations in the Provinces of Alberta, Manitoba, Ontario and Saskatchewan.
- 81317 May 5—Authorizing the Consumers' Gas Company of Toronto to lay a 6-inch steel gas main under the railway tracks Richardson Street near Fleet Street, Toronto, Ontario.
- 81318 May 5—Requiring the City of Calgary, Alberta, to bear and pay certain cost of construction and maintenance in regard to the subway at the intersection of 4th Street West and the C.P.R. at Calgary, Alberta.
- 81319 May 6—Approving revised book of rules and regulations governing the operation of the lines of the New York Central System on its St. Lawrence, Ottawa and Adirondack Divisions.
- 81320 May 6—Authorizing the C.P.R. to construct an overhead bridge to carry the Garrison Road over its right of way at mileage 0.68 Queen's Wharf Branch to replace the existing overhead bridge at mileage 0.71 Queen's Wharf Branch all at the City of Toronto, Ontario.
- 81321 May 6—Approving proposed location of storage tank etc. of Imperial Oil Limited near the tracks of the C.P.R. at Balcarres, Saskatchewan.
- 81322 May 6—Approving proposed location of storage tank etc. of Imperial Oil Limited near the C.P.R. tracks at Perdue, Saskatchewan.
- 81323 May 6—Approving operation of C.N.R. trains over a private industrial siding serving the assembly plant of the Ford Motor Company of Canada Limited near Oakville, Ontario.
- 81324 May 6—Approving proposed location of storage tank etc. of Imperial Oil Limited near track of C.N.R. at Glaslyn, Saskatchewan.
- 81325 May 6—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 81326 May 6—Approving supplement to Service Station Contract between the Applicant Company and the Commissioners for the Telephone System of the Municipality of the Town of Emily.
- 81327 May 6—Approving plan showing details of the C.N.R. bridge at mileage 126.4 Albreda Subdivision, British Columbia.
- 81328 May 6—Authorizing the Bell Telephone Company to erect and maintain lines of telephone upon and along certain highways in the Town of Chatham, Ontario.
- 81329 May 6—Authorizing the C.P.R. to construct a private siding to serve Green's Stove & Furnace, Limited across Trinity Street, Winnipeg, Manitoba.
- 81330 May 6—Approving proposed location of storage tank etc. of Gordon D. Richards, near the Chesapeake and Ohio Railway Company tracks at Wallaceburg, Ontario.
- 81331 May 6—Permitting the removal of slow order at C.P.R. crossing east of the station at Scotstown, Quebec.
- 81332 May 6—Permitting removal of slow order at C.N.R. crossing west of station at Richmond, Quebec.
- 81333 May 6—Permitting the removal of slow order at C.N.R. crossing near station at Plumas, Manitoba.
- 81334 May 7—Approving Supplement to traffic agreement between the Bell Telephone Company and The Sioux Lookout Telephone Company Limited.
- 81335 May 7—Approving traffic Agreement between the Bell Telephone and La Corporation de Telephone de Quebec.

- 81336 May 7—Approving proposed location of storage tank of John Irvine & Sons near the C.N.R. at St. James, Manitoba.
- 81337 May 7—Approving Supplement to Service Station Contract between The Bell Telephone Company and the North Renfrew Telephone Company, Limited.
- 81338 May 7—Approving operation of the Great Northern Railway Company trains over private siding serving West Coast Hardwood Limited, Vancouver, B.C.
- 81339 May 7—Permitting removal of slow order at C.P.R. crossing, King Street, Ingersoll, Ontario.
- 81340 May 7—Approving proposed location of storage tank of Edwards Sudbury Limited, near the C.P.R. tracks at Chelmsford, Ontario.
- 81341 May 7—Authorizing issuance of Licence No. C.T.C. (W.T.) 273 to Upper Lakes and St. Lawrence Transportation Company Limited.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLII

Ottawa, June 15, 1953

No. 6

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of Westcoast Transmission Company Limited, hereinafter called the "Applicant", under Sections 11 and 12 and other relevant sections of The Pipe Lines Act, for an Order granting the Applicant leave to construct a pipe line for the transportation of natural gas from a point in the vicinity of the Village of Brookmere, in the Province of British Columbia, through the Town of Princeton to a point on the International Boundary in the vicinity of the Village of Osoyoos, in the Province of British Columbia.

File No. 45371-3-5

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

Mr. ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Mr. F. M. MACPHERSON, *Commissioner.*

Appearances:

Mr. D. P. McDONALD, Q.C., and Mr. R. C. MERRIAM, for the Applicant.

Mr. W. G. BURKE-ROBERTSON, for the Attorney General of British Columbia.

Mr. J. J. FRAWLEY, Q.C., for the Province of Alberta.

Mr. R. W. MACLEAN, for the Department of Trade and Commerce.

JUDGMENT

KEARNEY, J., Chief Commissioner:

This is an application of Westcoast Transmission Company Limited for an Order for leave to construct a pipe line for the transportation of natural gas from a point in the vicinity of the Village of Brookmere, British Columbia, through the Town of Princeton to a point on the International Boundary in the vicinity of the Village of Osoyoos, British Columbia.

The present application concerns the second phase of the Applicant's project. That project, as stated by the Applicant to the Board, is a pipe line system designed to transmit natural gas from the Peace River areas of Alberta and British Columbia to two separate market areas in British Columbia and the States of Washington, Oregon and Idaho as follows:

1. The market area lying west of the Cascade Mountains embracing the Cities of Vancouver, B.C., Bellingham, Everett, Seattle, Tacoma, and Portland (and adjoining areas) in the States of Washington and Oregon.
2. The market area lying between the Rocky Mountains and the Cascade Mountains comprising Spokane, Wash., the Atomic Energy Plant at Hanford, Wash., Northern Idaho, and the Princeton, Trail, Castlegar and Rossland areas in British Columbia.

The first phase of the project, namely, the application for leave to construct the line to serve the first of these market areas, was heard by the Board in June 1952, and the application was granted by the Board's Judgments dated June 14, 1952 and October 11, 1952 and Order No. 79957, dated October 11, 1952. What was applied for and granted on that occasion was leave to construct a pipe line from a point in the vicinity of the Pouce Coupe area in Alberta, through the Towns of Dawson Creek and Prince George, British Columbia, to a point in the vicinity of Vancouver, British Columbia, including a branch line from a point in the vicinity of Abbotsford to a point on the International Boundary in the vicinity of the Town of Huntingdon. The applicant stated at that time that that pipe line was its main line but that a second phase would be a branch line running south from the main line in British Columbia to serve the second of the above mentioned market areas. The second phase now under consideration, therefor, is for leave to construct a pipe line that will connect with the main line near the Village of Brookmere, British Columbia, and then extend southerly through the Town of Princeton to the International Boundary at Osoyoos where it will connect with the pipe line system of Trans-Northwest Gas, Inc., serving the Spokane, Hanford and Northern Idaho areas, with a branch line of the latter system extending north from Spokane to the International Boundary near Trail to serve the Trail area in British Columbia.

This application was heard at Ottawa on April 27, 1953. The Board had previously by its Order No. 81050, dated March 23, 1953, directed that the Applicant file copies of the application, the map filed therewith and the said Order with the Attorney-General of Alberta and the Attorney-General of British Columbia, and mail, not later than March 30, 1953, copies of the said application, map and Order to the Town of Princeton, the Public Utilities Commission of British Columbia, the Department of Trade and Commerce of Canada, the Department of Public Works of Canada, the Canadian Pacific Railway Company and the Great Northern Railway Company; also that the Applicant cause to be inserted prior to April 2, 1953, a notice of the application in four issues of a newspaper published in Vancouver.

The Board has been satisfied that the directions in Order No. 81050 have been complied with.

No person or party appeared in opposition to the application.

Counsel for the Province of Alberta appeared and stated that the Province had no objection to the granting of the application. Counsel for the Attorney-General of British Columbia likewise stated that the Attorney-General had no objection. Mr. R. W. MacLean, of the Department of Trade and Commerce appeared and stated that if the Board is satisfied with the application the Department is prepared to issue the necessary licence. The licence here referred to is for exportation of gas and for construction of the pipe line under the Electricity and Fluid Exportation Act.

In our Judgment dated October 11, 1952, which granted leave to construct the main pipe line of the Applicant, we dealt at length with the question of reserves of gas in the Peace River areas of Alberta and British Columbia, and we found that in the information then known to us 2,506 billion cubic feet was a reasonable estimate of gas in situ. Evidence was given at the hearing of the present application that drilling and exploration work in the areas since the date of that Judgment have disclosed additional reserves of gas, and the evidence as to reserves not only confirms our previous estimate but satisfies us that a considerably higher estimate is justified. We are satisfied that the reserves are sufficient for the Applicant's project in both of its phases, namely, the main pipe line already authorized and the line for which authorization is presently being sought. Evidence was also given in respect of the location map, engineering design and cost of the proposed pipe line; gas purchase contracts; deliverability studies; the sales contract between the Applicant and Trans-Northwest Gas, Inc., the sales contract between the latter company and Inland Natural Gas Company Limited in respect of supply of gas to the Trail area in British Columbia; market data; financing, revenue, expenses and income; and other relevant matters.

The Board is satisfied that the project as a whole is economically feasible and that the granting of the present application will not be to the disadvantage of the main pipe line or of the communities proposed to be served by it. We are also satisfied as to the financial responsibility of the Applicant and, having regard to all considerations that appear to us to be relevant we are of the opinion that the Applicant has made out a satisfactory case and that it is in the public interest that the application be granted.

An Order will issue granting leave to construct the pipe line, construction to be completed before December 1, 1955.

OTTAWA, May 2, 1953.

I concur:

FRANK M. MACPHERSON.

I concur:

A. SYLVESTRE.

JOHN D. KEARNEY.

ORDER No. 81285

In the matter of the application of Westcoast Transmission Company Limited, hereinafter called the "Applicant", under Sections 11 and 12 and other relevant sections of The Pipe Lines Act, for an Order granting the Applicant leave to construct a pipe line for the transportation of natural gas from a point in the vicinity of the Village of Brookmere, in the Province of British Columbia, through the Town of Princeton to a point on the International Boundary in the vicinity of the Village of Osoyoos, in the Province of British Columbia:

File No. 45371·3·5

SATURDAY, the 2nd day of May, A.D. 1953

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the application at a sitting of the Board held in Ottawa on April 27, 1953, in the presence of Counsel for the Applicant and for the Attorney General of Alberta and the Attorney General of British Columbia and a representative of the Minister of Trade and Commerce of Canada—

It is ordered that leave be, and it is hereby, granted to Westcoast Transmission Company Limited to construct a pipe line consisting of one or more lines of pipe for the transportation of natural gas from a point of connection with the Applicant's pipe line, in respect of which leave to construct was granted by Order No. 79957, dated October 11, 1952, in the vicinity of the Village of Brookmere, in the Province of British Columbia, through the Town of Princeton to a point on the International Boundary in the vicinity of the Village of Osoyoos in the Province of British Columbia; the general location of the pipe line being as shown on the map filed with the Board with the application under file No. 45371·3·5; the said pipe line to be constructed and completed before December 1, 1955.

JOHN D. KEARNEY,
Chief Commissioner.

In the matter of apportionment of the remainder of the cost of construction as well as cost of maintenance of the subway authorized to be constructed at the intersection of 4th Street West and the railway of the Canadian Pacific Railway Company, at Calgary, Alberta:

File No. 2634

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

FRANK M. MACPHERSON, *Commissioner.*

OVERTON A. MATTHEWS, *Commissioner.*

Appearances:

K. D. M. SPENCE, F. H. BRITTON, G. P. MILLER, for the Canadian Pacific Railway Company.

E. N. BREDIN, for the City of Calgary.

J. S. WOODS, for Robin Hood Flour Mills, Limited.

JUDGMENT

KEARNEY, J., Chief Commissioner:

By Order No. 75324, dated October 10, 1950, the Board authorized construction of a subway at the intersection of 4th Street West and the railway of the Canadian Pacific Railway Company at Calgary but reserved for further consideration and order the apportionment of the remainder of the cost of construction and maintenance, after a grant of forty per cent of the cost of construction, not exceeding \$150,000, from the Railway Grade Crossing Fund.

The apportionment of the cost of construction is no longer an issue as the interested parties have reached agreement in that respect, and the only question for determination is who shall bear the cost of maintenance.

The City of Calgary, hereinafter called the "City", contended that the C.P.R. should be ordered to bear the whole cost of maintenance. The C.P.R. contended that it should not have to bear any part of that cost.

The following more important facts are not disputed:

1. The highway is a major highway traffic artery and is senior to the railway.
2. The subway was authorized as a work for the protection, safety and convenience of the public.
3. The C.P.R. has four main line tracks over the subway and there are spurs serving Robin Hood Flour Mills, Limited, and connecting only with the C.P.R.'s tracks. The structure has been made wide enough to take two extra tracks of the C.P.R. should they be required in the future.
4. The cost of construction is in the vicinity of \$1,300,000. Towards this cost contributions of \$250,000 and \$75,000 were made by the Government of Alberta and The T. Eaton Company, Limited respectively. A grant of \$150,000 was authorized from the Railway Grade Crossing Fund. The C.P.R. also made a voluntary contribution of \$150,000 which will be referred to later herein.
5. Prior to the construction of the subway the crossing was protected by gates and watchmen, and the C.P.R. bore the cost thereof, which for watchmen alone amounted to approximately \$12,000 annually in recent years.

6. The contractor which is building the subway has undertaken to give a ten year indemnity bond covering maintenance.
7. In 1931, by Order No. 47636 the Board authorized the City to construct the subway. In the original Order the question of maintenance was reserved but later it was agreed between the City and the C.P.R. that the City would bear the cost of maintenance and the Order was amended to that effect by Order No. 47687, dated November 17, 1931. However, the work was not proceeded with at that time because the necessary money by-law was not passed by the ratepayers.

An agreement dated December 13, 1911, between the C.P.R. and the City was put in evidence and it gave rise to considerable argument. In so far as these proceedings are concerned the City does not dispute the existence of the agreement or its validity. Counsel for the City suggested that the agreement might be invalid but at the close of his argument said: "It is true we think the agreement has no validity but we are not raising that"... "We will stick by the agreement".

It is our understanding that what the City disputes in respect of the agreement, so far as this application is concerned, is the contention hereinafter referred to that the agreement provides that the City shall bear the cost of maintenance of the subway. We are not making a decision at this time in respect of that dispute as we do not find it necessary for the purposes of this case to do so. However, we will state here that our decision, hereinafter stated, that the City should bear the cost of maintenance of the subway, would not be different even if we were to decide that the agreement does not provide that the City shall bear such cost.

In general, the agreement provided that the C.P.R. would establish its locomotive and car shops on a site near to the boundary of the City. The City, on its part, agreed to apply for and obtain provincial legislation to extend its boundaries so as to include the site of the shops and to validate and confirm the agreement. The City also agreed, *inter alia*, to construct highway, street railway extension, sewer and water lines and other specified works as facilities for the C.P.R.'s shops.

The main dispute as to the meaning of the agreement was in respect of paragraphs 8 and 10 which are as follows:

"(8) The City covenants that notwithstanding anything to the contrary contained in any agreement heretofore made between the parties or in any Statute now or hereafter passed or in any order of the Board of Railway Commissioners for Canada now or hereafter made, the City will assume, bear and pay all the cost of construction, maintenance and operation of any protection or protective appliances which may at any time hereafter be ordered by any competent authority, or which may become necessary at the crossings of the Company's railway at any of the following streets or highways in the City of Calgary, viz.:—Fourteenth Street West, Fourth Street West, Eighth Street East, Twelfth Street East, and the road allowance between Township Twenty-three (23) and Twenty-four (24), in Range One (1), West of the Fifth Meridian, Fifteenth Street East and Seventeenth Avenue East; and will also bear and pay the total cost of any separation of grades which may be ordered by any competent authority, or become necessary at any of the said crossings; and the City will indemnify and save harmless the Company of and from all liability which may be imposed upon the Company by any Statute or Order of the Board of Railway Commissioners for Canada, or other competent authority, in respect of the

cost of protection or of any separation of grades at any of the said crossings including compensation and damages which the Company may be liable to pay to the owners of lands taken or injuriously affected thereby; provided, however, that the Company shall continue to pay the cost of maintaining gates and watchmen at the crossing of Fourth Street West so long as the present method of protection is maintained, but the liability of the Company in respect thereof shall not hereafter be increased and shall cease whenever and so soon as any further or other protection shall or may be required, or so soon as a separation of grades shall or may be ordered or become necessary. The Company agrees not to oppose any application made by the City to the Board of Railway Commissioners or other competent authority for protection or a separation of grades at any of the said crossings upon the terms herein mentioned."

"(10) All the works hereinbefore mentioned to be performed by the City shall be performed at the sole cost of the City, and the Company shall not be liable directly or indirectly by any assessment, general tax, local improvement charge or otherwise to bear, or pay any part of the cost of the construction, repair, renewal, or maintenance thereof."

The City contended that there is specific mention of maintenance of protective appliances in paragraph 8 but no mention of maintenance where grade separation is dealt with in that same paragraph, and consequently the cost of maintenance of the subway is not covered by the agreement and there is in effect no agreement as to such maintenance; also that the maintenance mentioned in paragraph 10 refers only to the works specified in the agreement to be performed by the City and grade separation is not one of such works.

In addition to its contention that the agreement does not cover maintenance of the subway, the City asked that the Board make an Order putting the cost of maintenance on the C.P.R., notwithstanding and independently of the agreement and regardless of its meaning. In support of this request the City contended that the subway will relieve the C.P.R. of the cost of maintaining the gates and paying the watchmen and will also facilitate switching and storage of cars and enhance the C.P.R.'s public relations inasmuch as in future the public will not have cause to complain of being held up by trains at the crossing; that the City has incurred extra expense by providing room for two extra C.P.R. tracks in case they should be needed; that the spurs serving Robin Hood Flour Mills increased the cost of the subway; that the Robin Hood Flour Mills' plant was located on land sold to that company by the C.P.R. and this location increased the cost of the subway; that the \$150,000 contributed by the C.P.R. is less than the C.P.R. would have had to pay towards the cost of construction in the absence of the agreement.

The C.P.R. urged that the covenant by the City to bear the "total cost" of any separation of grades surely includes maintenance as well as construction costs; that the provision for the City to indemnify the C.P.R. from all liability in respect of the cost of protection or of any separation of grades also includes liability in respect of maintenance, and that the whole spirit of the agreement is that the City is to bear all costs; and that under Section 35 of the Railway Act the Board should require the City to abide by the agreement.

The C.P.R. also contended that the subway does not materially facilitate switching or storage of cars or otherwise benefit the C.P.R. to any appreciable extent; that the crossing was adequately protected by gates and watchmen; that the subway is entirely for the benefit of highway traffic; that costs should be related as nearly as possible to the benefits obtained, and even in the absence of the agreement the \$150,000 contributed by the C.P.R. would more than cover its fair proportion of both construction and maintenance costs.

Although the City and the C.P.R. disagree as to whether or not the agreement covers the cost of maintenance of the subway it is not disputed that the agreement provides for the bearing by the City of the cost of construction of the subway and certain other costs mentioned in the agreement; and it is also a fact that the C.P.R. has voluntarily contributed \$150,000 to the project without prejudice to its rights under the agreement. In a letter to the City dated June 30, 1952, which contained the offer to contribute \$150,000, the C.P.R. stated as follows:

"With reference to your letter of April 18th and subsequent meetings between you, the City Commissioners, and our officials, the City's position as outlined in the above-mentioned letter has been carefully studied, and this Company is ready to contribute \$150,000 as a gesture towards the good relations which have existed between the City and the Railway.

As you know, this offer is final, and is on the understanding that you and the Commissioners will unanimously recommend it to Council for approval; that, upon acceptance of this donation, no further contribution will be requested from the Company; that the donation is without prejudice to the Company's rights under any Agreement with the City; and is not to be regarded as a precedent."

The City accepted the offer contained in the letter.

In so far as benefit of the subway to the parties is a factor, we consider that the C.P.R. will derive very little benefit, other than that it will no longer have to bear the expense of maintaining gates and watchmen. On the other hand, it is obvious that highway traffic will benefit greatly. The City does not dispute that under the agreement the C.P.R.'s liability for the expense of maintaining gates and watchmen shall cease with the separation of grades.

Benefit of the subway to the parties is, of course, not the only factor to be considered in apportioning costs. What we have endeavoured to do is to determine what would be reasonable and proper, having regard to all the circumstances, including the voluntary contribution of \$150,000 already made by the C.P.R. and accepted by the City, and the undisputed fact that the agreement provides that the City shall bear the cost of construction of the subway and that the C.P.R.'s liability to bear the cost of maintaining the gates and watchmen shall cease upon separation of grades.

That the Board has jurisdiction to take the agreement into consideration is not disputed. Whether the Board ought to consider it is a matter for the Board's discretion. Although the Board as a rule leaves parties to have disputes as to the meaning or validity of an agreement settled by the provincial courts, we feel that it is not inconsistent with that practice to take undisputed terms of the agreement into consideration.

We have concluded that the C.P.R. has already contributed a sufficient amount to the project and should not be ordered to bear any part of the cost of maintenance of the subway.

The question of the apportionment of the remainder of the cost of construction as well as the cost of maintenance was reserved by Order No. 75324, and as the matter has now been determined as above set forth an Order will therefore go that the City bear those costs.

JOHN D. KEARNEY,

OTTAWA, May 5, 1953.

I concur:

FRANK M. MACPHERSON.

I concur:

O. A. MATTHEWS.

ORDER No. 81318

In the matter of apportionment of the remainder of the cost of construction as well as cost of maintenance of the subway authorized to be constructed at the intersection of Fourth Street West and the railway of the Canadian Pacific Railway Company, at Calgary, Alberta:

File No. 2634

TUESDAY, the 5th day of May, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*F. M. MACPHERSON, *Commissioner.*O. A. MATTHEWS, *Commissioner.*

The above matter having been heard at Calgary on March 27, 1953, in the presence of Counsel for the City of Calgary, the Canadian Pacific Railway Company and Robin Hood Flour Mills, Limited—

It is ordered that the City of Calgary bear and pay the remainder of the cost of construction, after the grant from the Railway Grade Crossing Fund, as well as the cost of maintenance of the subway which was authorized to be constructed by Order No. 75324, dated October 10, 1950, at the intersection of Fourth Street West and the railway of the Canadian Pacific Railway Company at Calgary, Alberta.

JOHN D. KEARNEY,
Chief Commissioner.

GENERAL ORDER No. 784

In the matter of publication of reduced classification ratings to govern freight tariffs, pending regular amendments to the Canadian Freight Classification:

File No. 33365-156

FRIDAY, the 1st day of May, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Section 322 of the Railway Act empowers the Board to make regulations respecting classification of goods:

And whereas regular amendments to the Classification, as governed by General Order No. 695, dated November 14, 1946, may incur unavoidable delay before becoming effective and thereby deprive interested shippers of the immediate benefits of reduced ratings therein proposed:

And whereas railway companies as represented by the Canadian Freight Association have proposed to institute reduced classification ratings by publication in a specially designated tariff, pending publication in regularly filed amendments to the Classification.

It is ordered

1. That any amendments to be made to the Canadian Freight Classification shall be prepared and submitted, at least semi-annually, in accordance with General Order No. 695.

2. That reductions in classification ratings may be established by tariff filed on not less than 30 days' notice.

3. That reduced classification ratings shall, unless suspended or disallowed by the Board, be maintained in effect until such ratings have been specifically established in the Classification, whereupon the reduced ratings established by tariff shall be cancelled concurrently with the effective date of the coming into force of like ratings in the Classification.

4. That tariff of reduced classification ratings, and any amendments thereto, shall be forwarded concurrently with the filing thereof with the Board, to all persons listed in General Order No. 695 and to all persons to whom the Canadian Freight Classification is furnished.

5. That tariff of reduced classification ratings shall be designated on the title page "Commodity Rates" and shall be additionally described as "Reduced Classification ratings governing tariffs which are subject to the Canadian Freight Classification."

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 81442

In the matter of the application of the Northern Transportation Company Limited, under Section 21 of The Transport Act, 1938, for approval of Standard Freight Tariff C.T.C. No. 13 covering tolls of licensed water carriers within the Mackenzie River watershed:

File No. 42082-32

FRIDAY, the 22nd day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Standard Freight Tariff C.T.C. No. 13 of the Northern Transportation Company Limited, on file with the Board under file No. 42082-32, be, and it is hereby, approved.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81478

In the matter of the application of the Governor and Company of Adventurers of England Trading into Hudson's Bay (commonly known as "Hudson's Bay Company"), for a licence under Section 10 of The Transport Act, 1938:

And in the matter of Order No. 81174, dated April 13, 1953:

File No. 42076-34

THURSDAY, the 28th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 81174, dated April 13, 1953, be, and it is hereby, amended by striking out the words and figures "M.V. Slave River—152590—50" in the list of vessels given in paragraph numbered 1 of the said Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81479

In the matter of the application of the British Yukon Navigation Company, Limited, hereinafter called the "Applicant Company", for a licence under section 10 of The Transport Act, 1938:

File No. 42076-42.

THURSDAY, the 28th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 275 be issued to the Applicant Company licensing for the period of one year commencing January 8, 1953, the following ships to transport passengers and/or goods by water between all ports and places accessible by navigation to the ships listed in the said application in respect of the Yukon River and its tributary waters within the Yukon territory:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Keno</i>	116,618	613
<i>Whitehorse</i>	107,837	1120
<i>Tutshi</i>	138,695	1041

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81480

In the matter of the application of Northern Transportation Company Limited for a licence under Section 10 of The Transport Act, 1938:

And in the matter of Order No. 81035, dated March 18, 1953:

File No. 42076-33

THURSDAY, the 28th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 81035, dated March 18, 1953, be, and it is hereby, amended by adding to the list of vessels given in paragraph numbered 1 of the said Order the words and figures "M/V Slave River—152590—50."

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81481

In the matter of the application of the Yellowknife Transportation Company, hereinafter called the "Applicant Company", for a licence under section 10 of The Transport Act, 1938:

File No. 42076-31

THURSDAY, the 28th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 274 be issued to the Applicant Company licensing for the period of one year commencing February 9, 1953, the following ships to transport goods by water between all ports and places in Canada accessible by navigation to the said vessels, on the Mackenzie River, Great Slave Lake and Slave River, Fort Smith, N.W.T. and north thereof.

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Sandy Jane</i>	177764	95·92
<i>Richard E</i>	179446	105·10
<i>YTC #101</i>	177761	233·76
<i>YTC #102</i>	177762	233·76
<i>YTC #104</i>	190800	233·06
<i>Saline</i>	192902	22·20
<i>YTC #12</i>	Not registered	103·00
<i>YTC #15</i>	Not registered	250·00
<i>YTC #16</i>	Not registered	250·00
<i>HBC Barge No. 259</i>	175560	420

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
APRIL, 1953

Railway Accidents	196	Killed 11	Injured 207
Highway Crossing Accidents	33	Killed 18	Injured 41
Total.....	229	Killed 29	Injured 248

	<i>Killed</i>	<i>Injured</i>
Passengers	2	39
Employees	2	158
Others	25	51
Total.....	29	248

DETAILS OF ACCIDENTS AT HIGHWAY CROSSINGS

Killed Injured

NOVA SCOTIA

- 1 Bicycle ran into side of train.

NEW BRUNSWICK

- 3 Automobile ran into side of train. Licence: N.B. 37-767.

QUEBEC

- 5 Automobile ran into side of train. Licence: Que. C-52-F-50814.
- 3 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.Y. 2F-4540.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. 64-402.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. F-570.
- 3 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 66542.
- 2 Automobile ran into side of train. Licence: Que. 171-850.

ONTARIO

- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-35172.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 96-H-39.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. P-1174.
- 1 Automobile ran into side of train. Licence: Ont. DU-222.
- 1 1 Auto truck ran into side of train. Licence: Ont. C-58698.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 36-S-47.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 56-992-C.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. F-7341.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-69921.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. L-8056.
- 1 Child crawled under train at crossing and train started to move.
- 2 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. Y-1399.
- 4 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 33-447-B.
- 1 Oil truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-28371.
- 1 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 8-M-189.
- 1 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. FZ-796.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence not given.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence not given.

MANITOBA

- 1 Automobile ran into side of train. Licence: Man. 9-N-722.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence not given.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 4-V-652.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 1-T-187.
- 1 Automobile ran into side of train. Licence: Man. 1-T-239.

ALBERTA

- 1 2 Automobile ran into side of train. Licence: Alta. 68-I-42.
- 1 1 Automobile ran into side of train. Licence: Alta. 60-Z-95.

Of the 33 accidents at highway crossings, 24 occurred at unprotected crossings, and 9 at protected crossings. Seventeen occurred after sunrise and sixteen after sunset.
OTTAWA, Ont., May 22, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81342 May 7—Authorizing the Bell Telephone Company to construct lines of telephone along certain public highways in the County of Kent, Ontario.
- 81343 May 8—Approving Appendix to Traffic Agreement between The Bell Telephone Company and The People's Telephone Company of Forest, Ont.
- 81344 May 8—Authorizing the C.N.R. to construct their railway across the highway by means of an overhead timber trestle at mileage 2.0 Kitimat Branch, B.C.
- 81345 May 8—Authorizing the C.P.R. to construct a branch line of railway across Fairfield Street, Bongard Avenue and others, all in the City of Winnipeg, Man.
- 81346 May 8—Permitting the removal of slow order at C.N.R. crossing, first north of station near Rouses Point, P.Q.
- 81347 May 8—Restricting the speed of trains of the Niagara, St. Catharines and Toronto Railway at the crossing of Vine Street, St. Catharines, Ont.
- 81348 May 8—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Emo, Ont.
- 81349 May 8—Permitting the removal of slow order at C.P.R. crossing near station at Boissevain, Man.
- 81350 May 8—Amending Order No. 79417 dated July 17, 1952, which authorized the Department of Highways of the Province of Alberta to construct an underpass at mileage 0.16 Camrose Subdivision, Alberta.
- 81351 May 8—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Deloraine, Man.
- 81352 May 8—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Holmfild, Man.
- 81353 May 8—Authorizing the C.N.R. to close the agency at Depot Harbour, Ont.
- 81354 May 8—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Neelin, Man.
- 81355 May 8—Approving clearances of canopy of building located on the C.P.R. siding serving Bishop Asphalt Papers Limited, Mount Royal, Quebec.
- 81356 May 9—Approving the operation of the C.N.R. and C.P.R. trains over the main lead track of the Toronto Harbour Commissioners in the vicinity of Keating and Leslie Streets, Toronto, Ont.
- 81357 May 9—Requiring the C.P.R. to install two flashing light signals and one bell at crossing of the Trans-Canada Highway at mileage 6.0 Langdon Subdivision, Alberta.
- 81358 May 9—In the matter of protection in connection with Valois Avenue, Montee des Sources Road and Coolbreeze Avenue in the Town of Pointe Claire, Que., where they cross the C.N.R. and C.P.R. tracks.
- 81359 May 9—Authorizing the C.N.R. to relocate its lines of railway from Linwood, N.S., to a point on the western approach of the Canso causeway at Aulds Cove, Nova Scotia.
- 81360 May 11—Approving proposed location of storage tanks of Imperial Oil Limited near C.P.R. tracks at Lac Du Bonnet, Man.
- 81361 May 12—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 81362 May 13—Extending the time within which protection is to be installed at crossing of Victoria Road and Louisburg Railway Company at Sydney, N.S.
- 81363 May 13—Authorizing the Municipality of St. James, Man., to construct Wellington Avenue across the C.N.R. in the Municipality of St. James, Man.
- 81364 May 13—Approving proposed location of storage tanks of Imperial Oil Limited near the tracks of the C.N.R. at Canora, Sask.
- 81365 May 13—Authorizing the Quebec Central Railway Company to remove the caretaker at Tomifobia Station, Que.
- 81366 May 13—Approving the operation of C.P.R. trains over a private siding serving the Hadley-Moulthorp Engineering Company, Limited, Chatham, Ont.
- 81367 May 13—Authorizing the Municipality of St. James, Man., to construct Sargent Avenue across the C.N.R. in the Municipality of St. James, Man.
- 81368 May 13—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.P.R. under Section 9.
- 81369 May 13—Amending Order No. 75253 dated September 21, 1950, in regard to protection at crossing of Taschereau Boulevard and railway of the Montreal and Southern Counties Railway Company, Greenfield Park, Que.
- 81370 May 13—Permitting the removal of slow order at C.N.R. crossing of Appleby Line Road near Bronte, Ont.
- 81371 May 13—Permitting the removal of slow order at C.N.R. crossing east of the station at Roseisle, Man.
- 81372 May 13—Approving proposed location of storage tanks of Imperial Oil Limited near C.P.R. tracks at Strasbourg, Saskatchewan.

- 81373 May 13—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Neptune Subdivision, Saskatchewan.
- 81374 May 13—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Bromhead Subdivision, Saskatchewan.
- 81375 May 13—Relieving the C.P.R. from maintaining cattle guards at highway crossings on its Willingdon Subdivision, Alberta.
- 81376 May 13—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Amulet Subdivision, Saskatchewan.
- 81377 May 13—Relieving the C.P.R. from maintaining cattle guards at highway crossings on its Vegreville Subdivision, Alberta.
- 81378 May 13—Relieving the C.P.R. from maintaining cattle guards at highway crossings on its Maple Creek Subdivision, Saskatchewan.
- 81379 May 13—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Colonsay Subdivision, Sask.
- 81380 May 13—Authorizing the C.P.R. to construct a private siding to serve Northern Asbestos and Building Supplies Limited across 26th Avenue, S.E., Calgary, Alberta.
- 81381 May 13—Authorizing the C.P.R. to reconstruct a portion of the east wall of the Broad Street subway in Regina.
- 81382 May 14—Authorizing the Department of Public Works of the Province of British Columbia to construct an overhead bridge across the C.P.R. at mileage 35·62 Nelson Subdivision, British Columbia.
- 81383 May 14—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Portal Subdivision, Saskatchewan.
- 81384 May 14—Permitting the removal of slow order at crossing of the highway and the C.N.R. near Cap Tourmente, Que.
- 81385 May 14—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Assiniboia Subdivision, Saskatchewan.
- 81386 May 14—Permitting the removal of slow order at C.P.R. crossing near station at Kemptville, Ont.
- 81387 May 14—Permitting the removal of slow order at C.N.R. crossing near Thornlea, Ontario.
- 81388 May 14—Permitting the removal of slow order at C.P.R. crossing near Palmer Siding, Ont.
- 81389 May 14—Permitting the removal of slow order at C.N.R. crossing near station at Falkenburg, Ont.
- 81390 May 14—Restricting the speed of trains at C.N.R. crossing at Wilhelm, Kitchener, Ontario.
- 81391 May 14—Approving By-law of the Town of St. Joseph, Que., in regard to the sounding of engine whistles.
- 81392 May 15—Permitting the removal of slow order at C.N.R. crossing at Corbyville, Ont.
- 81393 May 15—Authorizing the Department of Agriculture of Canada to raise the bridge of the C.P.R. at mileage 42·43, Cardston Subdivision, Alberta.
- 81394 May 19—Authorizing the Province of British Columbia to construct the highway across the C.P.R. at mileage 31·2, Cascade Subdivision.
- 81395 May 19—Authorizing the Alberta Department of Highways to construct the highway across the C.N.R. at mileage 60·95 Drumheller Subdivision.
- 81396 May 19—Amending Order No. 73957, dated February 10, 1950, which authorized the installation of automatic protection at the crossing of the Chesapeake and Ohio Railway and Highway No. 40 in the Township of Sarnia, Ont.
- 81397 May 19—Permitting the removal of slow order at C.P.R. crossing near siding at Cayley, Alta.
- 81398 May 19—Permitting the removal of slow order at C.N.R. crossing at Coteau Landing Road near Coteau, Que.
- 81399 May 19—Approving plan showing protection as installed at crossing of C.N.R. and Lansing Road, Oriole, Ont.
- 81400 May 19—Authorizing the railway companies subject to the jurisdiction of the Board to accept for transportation by freight certain steel cylinders containing carbon dioxide shipped by or consigned to the Department of National Defence.
- 81401 May 19—Authorizing the C.N.R. to construct their passing track across Hollowell Grant Road, Antigonish, N.S.
- 81402 May 19—Authorizing the Village of Neville, Sask., to construct Mawbray Street across the C.P.R. in the Village of Neville, Sask.
- 81403 May 19—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 81404 May 19—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff under section 9.
- 81405 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Crowsnest Subdivision, Alberta.

- 81406 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Brooks Subdivision, Alberta.
- 81407 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Suffield Subdivision, Alberta.
- 81408 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Langdon Subdivision, Alberta.
- 81409 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Hatton Subdivision, Saskatchewan.
- 81410 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Acme Subdivision, Alberta.
- 81411 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Alberta Central Subdivision, Alberta.
- 81412 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Red Deer Subdivision, Alberta.
- 81413 May 19—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Altawau Subdivision, Alberta.
- 81414 May 19—Approving plan showing protection as installed at crossing of C.N.R. and Highway No. 2A at Petite Riviere, Que.
- 81415 May 19—Amending Order No. 80700, dated January 26, 1953, in the matter of the application of the Department of Colonization of the Province of Quebec which authorized the construction of the highway across the C.N.R. in the County of Lotbiniere, Que.
- 81416 May 19—Approving Supplement to Service Station Contract between the Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of North Monck.
- 81417 May 20—Permitting the removal of slow order at C.P.R. crossing of Renfrew Street, Renfrew, Ont.
- 81418 May 20—Authorizing the Algoma Central and Hudson Bay Railway Company to reconstruct a bridge over the Agawa River, District of Algoma, Ont.
- 81419 May 20—Authorizing the Imperial Oil Limited to construct a steel tunnel across the C.P.R. at mileage 1-19 Lanigan Subdivision, Saskatchewan.
- 81420 May 20—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 81421 May 20—Amending Order No. 80205, dated November 17, 1952, in regard to facilities for handling and storage of petroleum gases at Aylmer, Ont.
- 81422 May 20—Authorizing The Consumers' Gas Company of Toronto to lay a steel gas main under the tracks of the C.N.R. on Sherbourne Street, Toronto, Ont.
- 81423 May 20—Approving proposed location of storage tank of Imperial Oil Limited near the tracks of the C.N.R. at Lumby, B.C.
- 81424 May 20—In the matter of the application of Buckerfield's Limited for an Order disallowing the increased rate on Dried Ground Grass and Alfalfa Meal from points in B.C. and Alta. to the Head of the Lakes and to Armstrong, Ont., for furtherance to points in Eastern Canada.
- 81425 May 21—Restricting the speed of trains over the crossing of C.N.R. and Caradoc Street, Strathroy, Ont.
- 81426 May 21—Amending Order No. 79829, dated September 25, 1952, in the matter of the application of the City of Toronto, which authorized the construction of a subway on Woodbine Avenue, Toronto, under tracks of the C.N.R.
- 81427 May 21—Approving location and details of station to be erected at C.N.R., Carleton, Quebec.
- 81428 May 21—Authorizing the City of Calgary to construct a subway at the crossing of 14th Street and the C.P.R. between 9th and 10th Avenues, Calgary, Alberta.
- 81429 May 22—Approving proposed location of storage tanks etc. by Imperial Oil Limited near Grenfell, Saskatchewan.
- 81430 May 22—Authorizing the C.P.R. to close Town Hall Station and remove the shelter thereat, at Mattawa, Ontario.
- 81431 May 22—Authorizing the New York Central Railroad Company to discontinue the service of a caretaker at Iona Station, Ontario.
- 81432 May 22—Approving clearances of temporary false work during construction of the bridge over Notre-Dame Street East, Montreal, Quebec. (C.P.R.)
- 81433 May 22—Dispensing with publication and notice in regard to application of the New York Central Railroad Company and the Chesapeake & Ohio Railway Company with reference to use of certain trackage and Pan-American Yard at Montrose, Ontario.
- 81434 May 22—Recommending to the Governor in Council for sanctioning an agreement between the New York Central Railroad Company and The Chesapeake and Ohio Railway Company, with reference to the use of certain trackage in Pan-American Yard, Montrose, Ontario.
- 81435 May 22—Authorizing the C.N.R. to construct a bridge over the Airport at mileage 4-2 Kitimat Branch, B.C.

- 81436 May 22—Approving proposed location of pipe line storage tanks etc. of Imperial Oil Limited, near the C.N.R. at Lundar, Manitoba.
- 81437 May 22—Approving location and details of C.N.R. shelter to be erected at Seaforth, Nova Scotia.
- 81438 May 22—In the matter of the application of C.P.R. for approval of abandonment of its Great Central Subdivision, Esquimalt & Nanaimo Railway Division, between Solly and Great Central in the Province of B.C.
- 81439 May 22—Requiring the C.P.R. to construct protection at crossing of its Railway and Dubreuil Street, Coniston, Ontario.
- 81440 May 22—Authorizing the Department of Agriculture of Canada to raise the bridge of the C.P.R. at mileage 42.3 Cardston Subdivision, Alberta.
- 81441 May 22—Approving under the Maritime Freight Rates Act tariffs filed by the Dominion Atlantic Railway Company under Sections 3 and 9.
- 81442 May 22—Approving Standard Freight Tariff C.T.C. No. 13 of the Northern Transportation Company Limited.
- 81443 May 22—Permitting the removal of slow Order at the crossing of the C.P.R. and 63rd Avenue, Edmonton, Alberta.
- 81444 May 22—Permitting removal of slow order at C.P.R. crossing near station at Two Hills, Alberta.
- 81445 May 23—Authorizing the Consumers Co-Operative Refineries Limited to construct its water line across the Company Pipe Line of the Interprovincial Pipe Line Company in the Northwest quarter of Section 32, Township 17, Range 19, W2M, Saskatchewan.
- 81446 May 23—Authorizing the Consumers' Co-Operative Refineries Limited to construct its sewer line across the company pipe line of the Interprovincial Pipe Line Company Northwest quarter of Section 32, Township 17, Range 19, W2M, Saskatchewan.
- 81447 May 23—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Reston Subdivision, Manitoba.
- 81448 May 23—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Arcola Subdivision, Manitoba.
- 81449 May 23—Approving proposed location of vertical storage tanks of Imperial Oil Limited, near C.P.R. tracks at Mont Laurier, Quebec.
- 81450 May 23—Approving proposed location of storage tanks etc., of Imperial Oil Limited near C.P.R. tracks at Neilburg, Saskatchewan.
- 81451 May 23—Approving proposed location of pumps etc., of the Consumers' Gas Company of Toronto for liquefied petroleum gas near C.N.R. tracks at Toronto, Ontario.
- 81452 May 25—Permitting the removal of slow order at C.P.R. crossing of Rosser Road, Brooklands, Manitoba.
- 81453 May 25—Permitting the removal of slow order at C.N.R. crossing at Crediton Road, near station at Centralia, Ontario.
- 81454 May 25—Authorizing the C.N.R. to reconstruct the bridge over the Blackwater River, Ontario. (Mileage 5.5 Dorion Subdivision).
- 81455 May 26—Authorizing the C.N.R. to reconstruct the bridge over the Blackwater River, Ontario. (Mileage 4.1 Dorion Subdivision).
- 81456 May 26—Authorizing the C.N.R. to reconstruct the bridge over the arm of the North Thompson River, B.C.
- 81457 May 26—Approving operation of the C.N.R. trains over the siding of the Toronto Harbour Commissioners serving Brewers' Warehousing Company Limited, Toronto, Ontario.
- 81458 May 26—Approving clearances on private siding serving Big Smoky Lumber Company Limited at Spurfild, Alberta. (Northern Alberta Railways Company).
- 81459 May 26—Approving proposed location of storage tank etc., of Canadian Oil Companies Limited, near the C.P.R. tracks at Keewatin, Ontario.
- 81460 May 27—Authorizing the C.N.R. to add a span to the east end of the existing bridge over Mud River, B.C.
- 81461 May 27—Authorizing the C.N.R. to reconstruct a timber bridge over Toboggan Creek, B.C.
- 81462 May 27—Amending Order No. 81330, dated May 6, 1953, which approved the proposed location of pipe lines, etc., at Wallaceburg, Ontario.
- 81463 May 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Biggar, Saskatchewan.
- 81464 May 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at McCreary, Manitoba.
- 81465 May 27—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Maple Creek Subdivision, Saskatchewan.
- 81466 May 27—Restricting the speed of C.N.R. trains at first public crossing south of the station at Charlesbourg, Quebec.

- 81467 May 27—Approving proposed location of storage tanks, etc., of the Sandy Lake Consumers Co-operative Limited near tracks of the C.N.R. at Sandy Lake, Manitoba.
- 81468 May 27—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Gravelbourg, Saskatchewan.
- 81469 May 27—Approving plans showing approximate location of C.N.R. station buildings at Linwood and Aulds Cove, N.S.
- 81470 May 28—Approving proposed location of Storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Gronlid, Saskatchewan.
- 81471 May 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Luseland, Saskatchewan.
- 81472 May 27—Approving under the Maritime Freight Rates Act tariffs filed by the Dominion Atlantic Railway Company under Sections 3 and 9.
- 81473 May 28—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Ryley, Alberta.
- 81474 May 28—Approving proposed location of an office of Imperial Oil Limited near C.N.R. tracks at White Bear, Saskatchewan.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, July 1, 1953

No. 7

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the City of Lachine, Province of Quebec, for an improvement in the protection now provided at the crossing of 55th Avenue, Lachine, and the railway of the Canadian Pacific Railway Company, mileage 3-85 Winchester Subdivision;

And in the matter of the apportionment of the cost of such improvement if any is ordered.

File: 27156-304

Before:

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

HEARD AT: Montreal, Que., on March 13, 1953.

Appearances:

Mr. F. S. BURBIDGE, for the Canadian Pacific Railway.

Mr. G. M. COOPER, for the Canadian National Railways.

Mr. L. METHOT, Q.C., for the Department of Roads of the Province of Quebec.

Mr. J. VIAU, Q.C., for the City of Lachine.

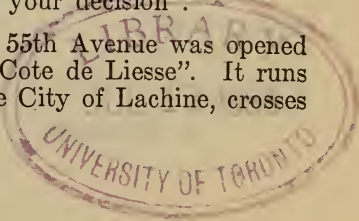
JUDGMENT

CHASE, Commissioner:

The application in this case was made by the City of Lachine, but at the outset of the hearing Counsel for the Department of Roads of the Province of Quebec, hereinafter called the "Department", made the following statement:

"This is again a case in which we have taken over the obligations of the City of Lachine and we submit ourselves for your decision".

In evidence it was stated that what is known as 55th Avenue was opened in 1850 and at that time was called the "Montee de Cote de Liesse". It runs in a northerly direction from the lakeshore road in the City of Lachine, crosses



a dual-lane highway known as the "Metropolitan Boulevard", and about 60 feet further crosses a double-track main line of the Canadian Pacific Railway. The railway is at an elevation of approximately 7 feet higher than the Boulevard, and the grade of the approach between the Boulevard and the railway is at least 12 per cent. The improvement applied for is the reduction of the grade; there is also the question of apportionment of the cost of such improvement.

The case is somewhat peculiar in that, due to the close proximity of the Boulevard to the railway, in order to reduce the grade it will be necessary to build a retaining wall approximately on the dividing line between the Boulevard and the railway right-of-way, with ramps running to the east and to the west, the cost of the project being estimated at \$42,212.

Up to a few years ago—55th Avenue, north of the railway, was not improved and did not carry very much traffic. In 1948 and 1949, the Department filled up the low spots, laid a pavement 20 feet wide, with shoulders of 5 feet on each side, and at that time the Department—at its own expense—levelled out the approach on the north side of the railway.

Counsel for the railway took the position that the responsibility of reducing the grade on the south side of the railway rested upon the Department for the reason that they laid the Boulevard too close to the railway, but finally stated, at pages 4361 and 4362 of the transcript:

"Now, I have been authorized by the Canadian Pacific Railway to say they would pay the cost of the improvements between the tracks and south limit of the highway and on the understanding already given by the Department, they will pay the cost of maintenance. We will pay the cost up to the south limit of our right of way or to put it a different way, the extensions east and west between the south limits of our right of way."

Counsel for the Department, at page 4357, stated:

"This is a case in which the Railroad Grade Crossing Fund should contribute something because it is an improvement for the railroad and the protection of the public over the tracks.

So we ask that 40 per cent be paid out of the Grade Crossing Fund and that the difference be divided equally between the Canadian Pacific Railway Company and the Department of Roads.

And the maintenance would be the same, half and half between—we are ready to accept the maintenance of this ramp that is going to be built."

Having regard to all that was placed before us, the difficulty in apportioning the cost as suggested by Counsel for the railway, the fact that the Department itself paid the entire cost of improving the grade of the approach on the north side of the track, and as this is a matter of protection and safety to the public, I am of the opinion that the apportionment, as suggested by Counsel for the Department, is fair and reasonable. Therefore, the plan for improvement will be approved, 40 per cent of the cost to be paid from the Railway Grade Crossing Fund, and the balance to be divided equally between the Department and the Canadian Pacific Railway Company. The maintenance of the ramps to be paid by the Department and the balance of the maintenance to be paid 50 per cent by the Department and 50 per cent by the Canadian Pacific Railway Company.

Order to go accordingly.

APRIL 10, 1953.

H. B. CHASE.

I concur:

A. SYLVESTRE.

Traduction

Dans l'affaire de la requête de la cité de Lachine, province de Québec, visant l'amélioration des moyens de protection qui existent actuellement au croisement de la 55^e avenue, Lachine, et de la voie ferrée de la Compagnie de chemin de fer du Pacifique-Canadien, au mille 3.85, subdivision de Winchester;

Et dans l'affaire de la répartition du coût de cette amélioration, advenant qu'elle soit ordonnée.

Dossier: 27156-304

Requête entendue par:

M. ARMAND SYLVESTRE, C.R., commissaire en chef suppléant.

M. H. B. CHASE, C.B.E., commissaire.

Requête entendue à: Montréal (P.Q.), le 13 mars 1953.

Ont comparu:

M. F. S. BURBRIDGE, pour la Compagnie de chemin de fer du Pacifique-Canadien.

M. G. M. COOPER, pour les chemins de fer Nationaux du Canada.

M. L. MÉTHOT, C. R., pour le ministère de la Voirie de la province de Québec.

M. J. VIAU, C. R., pour la cité de Lachine.

JUGEMENT

M. CHASE, commissaire:

Dans le cas présent, la requête a été présentée par la cité de Lachine mais, au début de l'audition, l'avocat du Ministère de la Voirie de la province de Québec, ci-après appelé le "Ministère", a fait la déclaration suivante:

"Il s'agit encore d'un cas où nous avons pris à notre charge les obligations de la cité de Lachine et nous nous en remettons votre décision"

Les témoignages mentionnent que la rue connue sous le nom de 55^e avenue a été ouverte en 1850 et qu'elle était appelée à l'époque "montée de Côte de Liesse". Cette avenue se dirige vers le nord à partir du chemin en bordure du lac, dans la cité de Lachine, traverse une route à deux voies connue sous le nom de "boulevard Métropolitain" et, à une soixantaine de pieds plus loin, croise une ligne principale à double-voie du Pacifique-Canadien. La voie ferrée est d'environ sept pieds plus élevée que le boulevard et la pente de l'abord compris entre le boulevard et la voie ferrée atteint au moins 12 p. 100. L'amélioration demandée a pour objet de diminuer la pente; il y a aussi la question de la répartition du coût de cette amélioration.

Le cas a ceci de particulier que, le boulevard étant situé à proximité de la voie ferrée, il sera nécessaire, pour diminuer la pente, de construire un mur de soutènement à peu près sur la ligne de démarcation du boulevard et de l'emprise du chemin de fer, ainsi que des rampes courant à l'est et à l'ouest, le coût de l'entreprise étant évalué à \$42,212.

Jusqu'à ces dernières années, la 55^e avenue, au nord de la voie ferrée, n'avait pas subi d'améliorations et la circulation n'y était pas très dense. En 1948 et 1949, le Ministère y a rempli les dépressions, l'a pavée sur une largeur de 20 pieds et épaulée de 5 pieds de chaque côté et a aussi, à ses frais, nivelé l'abord du côté nord de la voie ferrée.

L'avocat du chemin de fer a prétendu que la responsabilité de diminuer la pente du côté sud de la voie ferrée retombait sur le Ministère parce que celui-ci avait aménagé le boulevard trop près de la voie ferrée, mais il a déclaré en terminant (pages 4361 et 4362 de la transcription) :

Or, la Compagnie de chemin de fer du Pacifique-Canadien m'a autorisé à dire qu'elle paiera le coût des améliorations qui seront apportées entre les voies ferrées et la limite sud de la route et, avec l'assurance déjà donnée que le Ministère paiera le coût d'entretien. Nous paierons le coût jusqu'à la limite sud de notre emprise ou, autrement dit, celui des prolongements à l'est et à l'ouest entre les limites sud de notre emprise".

L'avocat du Ministère, a déclaré (page 4357) :

"Il s'agit d'un cas où la Caisse des passages à niveau devrait contribuer un certain montant, puisqu'il en résultera une amélioration pour le chemin de fer et une meilleure protection pour le public qui traverse les voies ferrées.

Nous demandons donc qu'une proportion de 40 p. 100 soit payée à même la Caisse des passages à niveau et que la différence soit partagée également entre la Compagnie de chemin de fer du Pacifique-Canadien et le Ministère de la Voirie.

.

Il en serait de même de l'entretien qui serait payé de moitié entre— nous sommes prêts à accepter l'entretien de la rampe devant être construite".

Compte tenu de tout ce qui nous a été soumis de la difficulté inhérente à la répartition du coût de la façon proposée par l'avocat du chemin de fer et du fait que le Ministère à lui-même acquitté en entier le coût d'amélioration de la pente de l'abord du côté nord de la voie ferrée, et étant donné qu'il s'agit de la protection et de la sécurité du public, je suis d'avis que la répartition, proposée par l'avocat du Ministère, est équitable et raisonnable. Par conséquent, le projet d'amélioration sera approuvé, la Caisse des passages à niveau devant contribuer 40 p. 100 du coût et le Ministère et la Compagnie de Chemin de fer du Pacifique-Canadien devant se partager également le reliquat. L'entretien des rampes sera défrayé par le Ministère et le reliquat de l'entretien sera payé dans une proportion de 50 p. 100 par le Ministère et dans une proportion de 50 p. 100 par la Compagnie de chemin de fer du Pacifique-Canadien.

L'Ordonnance sera exécutée en conséquence.

Le 10 avril 1953.

H. B. CHASE.

Approuvé: A. SYLVESTRE.

ORDER No. 81186

In the matter of the application of the City of Lachine, Province of Quebec, for an improvement in the protection now provided at the crossing of 55th Avenue and the railway of the Canadian Pacific Railway Company in the City of Lachine, in the Province of Quebec, at mileage 3·85 Winchester Subdivision:

File No. 27156·304

WEDNESDAY, the 15th day of April, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sitting of the Board held in Montreal, Quebec, on March 13, 1953, in the presence of Counsel for the Canadian Pacific Railway Company, the Department of Roads of the Province of Quebec and the City of Lachine; and upon the consent of the Department of Roads of the Province of Quebec—

It is ordered

1. That, within six months from the date of this Order, the Department of Roads of the Province of Quebec decrease the inclination of the highway approach on the south side of the crossing of 55th Avenue and the railway of the Canadian Pacific Railway Company in the City of Lachine, in the Province of Quebec, at mileage 3·85 Winchester Subdivision, by constructing and maintaining ramps running to the east and to the west, approximately on the dividing line between the Metropolitan Boulevard and the railway right of way as shown on plan No. T-56, revised to November 6, 1951, on file with the Board under file No. 27156·304.

2. That forty per cent of the cost of construction of the works hereby ordered, not exceeding, however, the sum of \$16,888.00, be paid out of the Railway Grade Crossing Fund, and the remainder of such cost be borne and paid in equal amounts by the Department of Roads of the Province of Quebec and the Canadian Pacific Railway Company.

3. That the cost of maintenance of the surface of the ramps hereby ordered be borne and paid by the Department of Roads of the Province of Quebec, and the remainder of the cost of maintenance of the works hereby ordered be borne and paid in equal amounts by the Department of Roads of the Province of Quebec and the Canadian Pacific Railway Company.

HUGH WARDROPE,

Assistant Chief Commissioner.

(Traduction)

ORDONNANCE N° 81186

Dans l'affaire de la requête de la cité de Lachine, province de Québec, visant l'amélioration des moyens de protection qui existent actuellement au croisement de la 55^e avenue et de la voie ferrée de la Compagnie de chemin de fer du Pacifique-Canadien dans la cité de Lachine, province de Québec, au mille 3·85, subdivision de Winchester:

Dossier n° 27156·304

Le MERCREDI 15^e jour
d'avril 1953.

A. SYLVESTRE, C.R., Commissaire en chef suppléant.

H. B. CHASE, C.B.E., Commissaire.

Après audition de la requête à une séance de la Commission tenue à Montréal (P.Q.), le 13 mars 1953, en présence des avocats de la Compagnie de chemin de fer du Pacifique-Canadien, du Ministère de la Voirie de la province de Québec et de la cité de Lachine, et vu le consentement du Ministère de la Voirie de la province de Québec—

Il est ordonné:

1. Que, dans les six mois qui suivront la date de la présente ordonnance, le ministère de la Voirie de la province de Québec diminue la pente de l'abord de la route du côté sud du croisement de la 55^e avenue et de la voie ferrée de la Compagnie de chemin de fer du Pacifique-Canadien dans la cité de Lachine, dans la province de Québec, au mille 3·85 de la subdivision de Winchester, en construisant et entretenant des rampes courant à l'est et à l'ouest, à peu près sur la ligne de démarcation du boulevard Métropolitain et de l'emprise du chemin de fer tel qu'il est indiqué au plan n° T-56, révisé au 6 novembre 1951 et versé au dossier de la Commission portant le numéro 27156·304.

2. Qu'une proportion de quarante pour cent du coût de construction des ouvrages prescrits par les présentes, sans dépasser cependant la somme de \$16,888, soit payée à même la Caisse des passages à niveau, et que le reliquat de ce coût soit supporté et acquitté à parts égales par le Ministère de la Voirie de la province de Québec et par la Compagnie de chemin de fer du Pacifique-Canadien.

3. Que le coût d'entretien de la surface des rampes prescrites par les présentes soit supporté et payé par le ministère de la Voirie de la province de Québec, et que le reliquat du coût d'entretien des ouvrages prescrits par les présentes soit supporté et acquitté à parts égales par le ministère de la Voirie de la province de Québec et par la Compagnie de chemin de fer du Pacifique-Canadien.

HUGH WARDROPE,
Commissaire en chef adjoint.

In the matter of the application of the City of Regina for an order directing the Canadian Pacific Railway Company to reconstruct a portion of the east wall of the Broad Street subway in Regina:

File No. 4112

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner*.

Mr. F. M. MACPHERSON, *Commissioner*.

Mr. O. A. MATTHEWS, *Commissioner*.

Appearances:

G. F. STEWART, Q.C., for the City of Regina.

H. A. V. GREEN, Q.C., for the Canadian Pacific Railway Company.

JUDGMENT

KEARNEY, J., *Chief Commissioner*:

This application was heard at Regina on April 8 and 9, 1953. I do not propose to outline all the evidence there given but will comment on portions of it.

The construction of the Broad Street subway in Regina was authorized by Board's Order No. 12801, dated January 20, 1911. The order provided that the City of Regina do all excavation and paving and erecting of superstructures and drain and light the subway, and that the Canadian Pacific Railway Company erect all the superstructures to carry its yard and trains over the subway. Construction was completed in 1914.

The walls of the subway have deteriorated considerably and have rotated, or leaned, to some extent. The City claims that a portion of the east wall adjacent to an icehouse, which was built by the C.P.R. in 1931 on its own property, is dangerous to the public and that this condition was caused by the construction of the icehouse, inadequate surface drainage from the C.P.R.'s property and the fact that the C.P.R. permitted traffic to proceed between the icehouse and the subway wall. The last of these alleged causes was not pressed at the hearing.

The main request of the City is for an order for replacement of the said portion of the east wall of the subway at the cost of the C.P.R. There are what I consider to be ancillary requests for drainage of the C.P.R. land and repairs to the icehouse foundations.

Broad Street subway has altogether about 980 feet of concrete wall, which has been described as a gravity wall, that is, a wall that depends on its own dead weight to withstand overturn. The City asks for replacement of the portion of the east wall from the south side of the superstructure to the south side of the stairway, some 150 to 200 feet. The distance between the east wall and the northwest corner of the icehouse is about 12·5 feet and between the wall and the southwest corner of the icehouse is about 24·5 feet.

Professor Torchinsky and Professor Douglas, both on the Engineering staff of the University of Saskatchewan, were called by the City and gave technical and opinion evidence. Professor Torchinsky said that Regina gumbo clay exercises excessive swelling pressures when it is saturated with water. Also that he made drill holes on the east side of the subway in the general vicinity of the icehouse, some of which were between the icehouse and the east wall, and a similar drill hole on the opposite side of the subway, and that tests of the soil samples from these holes showed that the moisture content of the soil on the east side of the subway, that is, on the side on which the icehouse is located, was higher than on the west side. He also stated that the weight of ice resting

directly on the soil in the icehouse, which he said would amount to 14,000 pounds per square foot if the icehouse were full, would have an effect on the east wall of the subway as the load of the ice would be transmitted laterally against the subway wall. His conclusion was that the icehouse has definitely hastened the rotation and failure of the section of the east wall of the subway directly opposite it, and that the effect was caused by the increased load of the ice and the increased water content of the soil due to melting of the ice. However, he agreed that there has been rotation of the east wall north of the superstructure and also of the west wall and that in neither case was the icehouse the cause of that rotation.

Professor Douglas gave his opinion that the weight of the ice hastened the failure of the subway wall adjacent to it but he could not assign the respective responsibilities of various contributory causes nor state how much of a contributory factor the icehouse was.

Mr. Pattison, Assistant City Engineer, stated that the appearance of the east side of the subway wall is worse than that of the west side and that this condition was caused by ice or water, that drainage adjacent to the icehouse goes towards the subway wall and that drainage from the icehouse is inadequate. However, he also stated that the City's records showed that the subway wall had begun to move outward as far back as around 1913.

Professor Hardy, Dean of the Faculty of Engineering at the University of Alberta, a witness called by the C.P.R., stated that the Albert Street subway in Regina was built about two years before the Broad Street subway, that it is very similar in design and of the same type of concrete, that both subways were built by the same contractor and that both have behaved almost identically to the year; also that the Winnipeg Street subway under the C.P.R. tracks, which was built about 1930, shows signs of movement due to soil pressure. He also stated that he made test borings close to the east wall of the subway and the icehouse, and found no indication that there has been any appreciable accumulation of moisture from water from the icehouse. His opinion was that the concrete in the Broad Street subway was excessively wet when poured and was short of rock, that there has been progressive deterioration of the concrete, that the movement of the walls was caused by expansion of the soil, Regina gumbo clay being highly plastic and capable of exerting high swelling pressures, but that neither pressure of ice in the icehouse nor water from the icehouse had any material influence on the subway walls. He was also satisfied that the maximum movement in the wall was there before the icehouse was built.

Mr. Dyer, Engineer of Maintenance of Way for the C.P.R.'s Prairie and Pacific Regions, stated that in 1929 he personally noticed that the subway wall was leaning, and that just before repairs were made to the Albert Street subway a couple of years ago its walls were leaning very much the same as the Broad Street subway walls. As to drainage, he said that approximately 900 tons of ice is put in the icehouse each winter and that drainage is adequate. Evidence was given by another C.P.R. official as to the physical condition of the icehouse and the road along side it.

The real issue before us is whether or not the icehouse or the ice in it or water from C.P.R. land caused or contributed to the present condition of the portion of the east wall of the Broad Street subway which is adjacent to the icehouse and which the City asks to have replaced at the cost of the C.P.R. There is some conflicting evidence, especially opinion evidence, but there is ample factual proof that there was deterioration and rotation of the east wall even before the icehouse was built. There is also ample factual proof that other portions of the east wall and the west wall of the Broad Street subway and also the walls of the Albert Street subway have deteriorated and rotated, and no one suggests, nor is there any reason to think, that the presence of the icehouse

could have affected them. The evidence that the Broad Street, subway and the Albert Street subway were built by the same contractor, at about the same time, of the same type of concrete and very similar in design, and that they have behaved almost identically is significant.

Whatever may have been the cause or combination of causes that resulted in the deterioration and rotation of the walls of the Broad Street subway, it has not been established, in my opinion, that either the icehouse or the ice in it, or inadequate drainage by the C.P.R. of water from its land, caused or contributed to the present condition of that portion of the east wall that the City wants reconstructed at the cost of the C.P.R. On the contrary I think from the evidence that the present condition of that portion resulted from causes other than those alleged by the City.

There has not been shown in this case any reason why the C.P.R. should be held responsible for the present condition of any part of the Broad Street subway walls or be ordered to bear any of the cost of reconstruction of such walls.

An order will therefore go dismissing the application for replacement at the cost of the C.P.R. and the other ancillary requests contained in the application.

JOHN D. KEARNEY.

OTTAWA, May 13, 1953.

I concur:

FRANK M. MACPHERSON.

I concur:

O. A. MATTHEWS.

ORDER No. 81381

In the matter of the application of the City of Regina for an order directing the Canadian Pacific Railway Company to reconstruct a portion of the east wall of the Broad Street subway in Regina:

File No. 4112

WEDNESDAY, the 13th day of May, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Upon hearing the application at the City of Regina on April 8 and 9, 1953, in the presence of Counsel for the City of Regina and the Canadian Pacific Railway Company—

It is ordered that the application be, and it is hereby, dismissed.

JOHN D. KEARNEY,
Chief Commissioner.

ORAL JUDGMENT

DELIVERED AT CONCLUSION OF HEARING AT OTTAWA, ON JUNE 10, 1953

In the matter of the application of the Interprovincial Pipe Line Company, under Section 20 of the Pipe Lines Act, for approval of plan, profile and book of reference, being Sheet numbered CAN. 2, showing the location of the deviation in the Applicant Company's pipe line from a point on the East bank of the St. Clair River in the vicinity of the City of Sarnia in the Province of Ontario being opposite lots 9 and 10 of the River view Sub-division of the City of Sarnia, to a point in the City of Sarnia being on the westerly limit of Indian Road opposite lot 11, Block B, Plan 13, Township of Sarnia, County of Lambton, Province of Ontario, and from a point upon the said above-described pipe line located approximately 114.5 feet West of the point of intersection of the centre line of the said pipe line with the centre line of the Chesapeake and Ohio Railway, to a point on the North boundary of the property owned by Canadian Oil Companies Limited, in the Township of Moore, all as shown on the said plan Can. 2;

And in the matter of the application of the said Company, under Section 31 of the Pipe Lines Act, for leave to carry its Company pipe line across all streets, roads, railways, irrigation ditches, underground telegraphs, telephone or electric power lines or pipe lines, as shown on the plan referred to above.

File No. 45371-2-42

THE ASSISTANT CHIEF COMMISSIONER: Gentlemen, we have discussed the matter and we have been able to come to a conclusion. We do not think anything will be gained by delaying our decision. By Order No. 81030, dated Tuesday, March 17, 1953, the Board gave leave to the Interprovincial Pipe Line Company to construct a pipe line in part over certain lands called, I believe, the Sarnia Indian Reserve. Following the issuance of this order negotiations were entered into between the pipe line company and the Indian Council as to compensation and such matters. After protracted negotiations no mutually satisfactory agreement could be reached.

The evidence produced this morning showed that there were several meetings to discuss the route through the Indian reserve and compensation, but as I said before no satisfactory conclusion could be reached. It seems, too, that the Governor-in-Council does not desire to issue an order in council as provided under Section 22 of the Pipelines Act until an agreement can be achieved. After all these attempts have been made, it appears obvious to us that the difficulties in the way of arriving at an agreement between the parties are almost insurmountable and, under the circumstances, it is not unreasonable for the pipeline company to seek an alternate route as they have. This route, which is the route in the application before us this morning, would seem to be the nearest practical route outside of the Indian lands.

Letters were filed from the Councils of the City of Sarnia, the Township of Sarnia and the Township of Moore, being the only municipalities through which the proposed route of the pipe line passes, stating they had no objection to the proposed route through their respective municipalities.

We have listened to and given consideration to the representations of counsel representing the farmers and land owners along the proposed route. However, taking all things into consideration we think the application, under the circumstances I have outlined, is not unreasonable and accordingly it will be granted and an order will issue.

ORDER No. 81547

In the matter of the application of the Interprovincial Pipe Line Company, hereinafter called the "Applicant", for an Order under Section 20 of The Pipe Lines Act, approving the plan, profile and book of reference, being Sheet numbered CAN. 2, showing the location of the deviation in the Applicant's company pipe line from a point on the East bank of the St. Clair River in the vicinity of the City of Sarnia, in the Province of Ontario, being opposite lots 9 and 10 of the Riverview Subdivision of the City of Sarnia, to a point in the City of Sarnia being on the westerly limit of Indian Road opposite lot 11, Block B, Plan 13, Township of Sarnia, County of Lambton, Province of Ontario, and from a point upon the said above-described pipe line located approximately 114.5 feet West of the point of intersection of the centre line of the said pipe line with the centre line of the Chesapeake and Ohio Railway to a point on the North boundary of the property owned by Canadian Oil Companies Limited, in the Township of Moore; and granting leave to the Applicant to carry its company pipe line across all streets, roads, railways, irrigation ditches, underground telegraph, telephone or electric power lines or pipe lines, as shown on the said plan:

File No. 45371·2·42

WEDNESDAY, the 10th day of June, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon hearing the application at a sitting of the Board held in the Court Room in the Union Station Building at Ottawa on June 10, 1953, in the presence of Counsel for the Applicant and certain landowners affected—

It is ordered

1. That the plan, profile and book of reference, being sheet numbered CAN. 2, on file with the Board under file No. 45371·2·42, showing the location of the deviation in the Applicant's company pipe line from a point on the East bank of the St. Clair River in the vicinity of the City of Sarnia, in the Province of Ontario, being opposite lots 9 and 10 of the Riverview Subdivision of the City of Sarnia, to a point in the City of Sarnia being on the westerly limit of Indian Road opposite lot 11, Block B, Plan 13, Township of Sarnia, County of Lambton, Province of Ontario, and from a point upon the said above-described pipe line located approximately 114.5 feet West of the point of intersection of the centre line of the said pipe line with the centre line of the Chesapeake and Ohio Railway, to a point on the North boundary of the property owned by Canadian Oil Companies Limited, in the Township of Moore, in the Province of Ontario, be, and it is hereby, approved.

2. That leave be, and it is hereby, granted to the Applicant to carry its company pipe line across all streets, roads, railways, irrigation ditches, underground telegraph, telephone or electric power lines or pipe lines as shown on the said plan, in accordance with the Standard Regulations Regarding Company Pipe Line Crossings, made and adopted by General Order of the Board No. 732, dated the 29th day of September, 1949.

HUGH WARDROPE,

Assistant Chief Commissioner.

GENERAL ORDER No. 785

In the matter of Rules for Protection of Impassable or Slow Track:

File No. 4135-25

THURSDAY, the 14th day of May, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that the following Rules for Protection of Impassable or Slow Track (which are the same as the Rules with similar numbers in the Uniform Code of Operating Rules approved by General Order No. 750) be, and they are hereby, approved and prescribed for the observance of all railway companies subject to the jurisdiction of the Board, except railway companies which the Board by order exempts from the application of this Order:

- "40. (a) Before undertaking any work which may render the main track unsafe for movements at normal speed, or if rendered unsafe from any cause, trackmen, bridgemen, or other employees must provide protection by sending out a flagman with flagman's signals in each direction at least 2,000 yards from the defective or working point.
- (b) After going out the required distance, flagman must take up a position where there will be a clear view of him from an approaching train of, if possible, 500 yards, first placing torpedoes not more than 100 nor less than 50 yards apart to cause two explosions at least 200 yards beyond such position.
- (c) Flagman must not return until recalled or relieved.
- (d) If necessary to go beyond the required distance, flagman will leave the torpedoes at the required distance, but under such conditions must also place torpedoes at the point at which an approaching train is flagged.
- (e) On the approach of a train flagman must display stop signals, using lighted fusees at night or in obscure weather.
- (f) Trains stopped by a flagman will be governed by his instructions, and on reaching the defective or working point will there be governed by instructions of the foreman in charge.
- (g) Flagmen must each be equipped for day time with
 - A red flag on a staff,
 - At least eight torpedoes and
 - Five red fusees; and
 For night time and when weather or other conditions obscure day signals
 - A red light,
 - A white light,
 - A supply of matches,
 - At least eight torpedoes and
 - Five red fusees.

41. On subdivisions or portions thereof specified in the timetable or special instructions, rule 40 may be modified as follows:

- (a) By day place a red flag and, in addition, by night a red light between the rails 200 yards in each direction from the defective or working point, and place torpedoes on each rail to cause one explosion 200 yards beyond the red signals, also:
- (b) By day place a yellow over red flag and, in addition, by night a yellow light and a red light at least 2000 yards in each direction

from the defective or working point on the same side of the track as the engineman of an approaching train, and place torpedoes not more than 100 nor less than 50 yards apart to cause two explosions 200 yards beyond these signals.

- (c) Trains approaching the signals prescribed by clause (b) must stop, replace the torpedoes and proceed to the red signal prescribed by clause (a) and there be governed by instructions of the foreman in charge, and must not proceed until the red signal has been removed by the foreman.
- (d) When weather or other conditions obscure day signals night signals must be used in addition.

42. When the main track is impassable, and after train order protection has been provided and the foreman so advised, rules 40 and 41 may be modified as follows:

- (a) By day place a red flag and, in addition, by night a red light between the rails 200 yards in each direction from the defective or working point, also:
- (b) By day place a yellow flag and, in addition, by night a yellow light at least 2000 yards in each direction from the defective or working point on the same side of the track as the engineman of an approaching train, where there is a clear view of the signal of, if possible, 500 yards.
- (c) Trains stopped by the red signal prescribed by clause (a) must be governed by instructions of the foreman in charge, and must not proceed until the red signal has been removed by the foreman.
- (d) When weather or other conditions obscure day signals night signals must be used in addition.

43. When the nature of the defect does not require stop to be made, and after speed restriction has been placed by train order and the foreman so advised, rules 40 and 41 may be modified as follows:

- (a) By day place a yellow flag and, in addition, by night a yellow light at least 2000 yards in each direction from the defective point on the same side of the track as the engineman of an approaching train, also:
- (b) By day place a green flag and, in addition, by night a green light in each direction immediately beyond the defective point.
- (c) Trains must reduce speed to comply with requirements of the train order, and must not increase speed until the entire train has passed the green signal.
- (d) When weather or other conditions obscure day signals night signals must be used in addition.

44. On subdivisions or portions thereof specified in the timetable or special instructions, when the main track is found to be unsafe for movements at normal speed but safe for speed of ten miles per hour or more, rule 41 may be modified as follows:

- (a) By day place a yellow flag and, in addition, by night a yellow light 200 yards in each direction from the defective point on the same side of the track as the engineman of an approaching train, also:
- (b) By day place a yellow over red flag and, in addition, by night a yellow light and a red light at least 2000 yards in each direction from the defective point on the same side of the track as the engineman of an approaching train, and place torpedoes not more than 100 nor less than 50 yards apart to cause two explosions 200 yards beyond these signals; also

- (c) By day place a green flag and, in addition, by night a green light in each direction immediately beyond the defective point.
- (d) Trains must stop and replace torpedoes on each side of the defective point, and must reduce speed to ten miles per hour before passing the yellow signal and must not increase speed until the entire train has passed the green signal.
- (e) When weather or other conditions obscure day signals night signals must be used in addition.
- (f) The foreman must report the condition to the train dispatcher as soon as practicable, and when advised that speed restriction has been placed by train order must mark the defective point as prescribed by rule 43.

45. In providing protection each main track must be regarded as a track upon which trains may run in either direction. Where two main tracks are on the same roadbed, flags and lights required to be placed on the same side of the track as the engineman of an approaching train under rules 41-44 inclusive must be placed to the outside of the track affected and not between the two main tracks. Under this rule, when the two main tracks on the same roadbed are for single track operation their location will be shown in the timetable.

46. When flags or lights are placed as set forth in rules 41-45 inclusive they will be mounted on staffs and elevated so as to be clearly in view of the engineman of an approaching train.

47. Where the use of torpedoes is required, duplicates should be placed on the opposite rail to explode simultaneously.

48. Torpedoes must not be placed near stations nor on public crossings at grade.

49. A sign bearing figures indicating permissible speeds, or the word SLOW, placed at the side of the track will indicate a permanent slow order; its location and speeds permitted will be specified in the timetable or special instructions."

It is further ordered that

1. Except where modification as prescribed by rules 42 and 43 has been provided, rule 40 of this Order shall apply as follows:

- (a) On double track;
- (b) on three or more tracks;
- (c) on main line Subdivisions in mountain territory and
- (d) on all tracks where there are nine or more trains operating between 6.00 a.m., and 6.00 p.m., or where schedule freight train speeds are in excess of 40 miles per hour or schedule passenger train speeds are in excess of 50 miles per hour.

2. Where flags are required to be displayed under Rules 41, 42, 43 and 44 of this Order, such flags shall be of a serviceable type of minimum dimensions of 22 by 28 inches.

3. Where conditions require display of night signals lights of the prescribed colour and type, such as oil burning vessels, for example a trainman's lantern, shall be used.

4. General Order No. 690, dated August 13, 1946, and General Order No. 697, dated January 4, 1947, be, and they are hereby rescinded.

HUGH WARDROPE
Assistant Chief Commissioner.

ORDER No. 81500

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of The Transport Act, 1938, for approval of an agreed charge dated March 13, 1953, between Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways and Imperial Oil Limited, on petroleum products, from East Edmonton, Alberta, to specific destinations on the Northern Alberta Railways West of Manir and Brownvale, Alberta:

File No. 40994-42

WEDNESDAY, the 3rd day of June, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*F. M. MACPHERSON, *Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed, notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections filed—

It is ordered that the agreed charge between Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways and Imperial Oil Limited, on petroleum products, from East Edmonton, Alberta, to specific destinations on the Northern Alberta Railways West of Manir and Brownvale, Alberta, on file with the Board under file No. 40994-42, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed, as the 16th day of March, 1953.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 81523

In the matter of the application of the Georgian Bay Tourist and Steamships Limited, hereinafter called the "Applicants", for a licence under section 10 of The Transport Act, 1938:

File No. 42076-29

FRIDAY, the 5th day of June, A.D. 1953.

F. M. MACPHERSON, *Commissioner.*H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 276 be issued to the Applicants licensing for the period of one year commencing January 15, 1953, the following ship to transport passengers and/or goods by water between all ports or places in Canada on Georgian Bay:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Midland City</i>	100662	580.16

FRANK M. MACPHERSON,
Commissioner.

ERRATUM

With respect to the statement of Demurrage Penalties assessed by the Canadian Demurrage Bureau, on page 46, No. 2, Vol. XLIII of J.O.R. & R. of April 15, 1953, the words "General Orders Nos. 201 and 349 should read "General Order No. 752", and the *NOTE* should read:—"First day over free time, \$3.00; 2nd day or fraction thereof, \$3.00; 3rd day or fraction thereof, \$5.00; 4th day or fraction thereof, \$5.00; 5th day and each succeeding day or fraction thereof, \$7.00."

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81475 May 28—Requiring the C.N.R. to install protection at crossing of 111th Avenue at 121st Street, Edmonton, Alta.
- 81476 May 28—Requiring the C.P.R. to install protection at crossing of the Midland Railway Company on Ellice Ave. west of Strathcona Street, Winnipeg, Man.
- 81477 May 33—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.P.R. tracks at Tramping Lake, Sask.
- 81478 May 28—Amending Order No. 81174, dated April 13, 1953, in the matter of application of the Hudson's Bay Company for a licence under Section 10 of The Transport Act, 1938.
- 81479 May 28—Authorizing the issuance of water licence to the British Yukon Navigation Company, Limited.
- 81480 May 28—Amending Order No. 81035, dated March 18, 1953, in the matter of the application of the Northern Transportation Company Limited for a licence under Section 10 of The Transport Act, 1938.
- 81481 May 28—Authorizing the issuance of water licence to Yellowknife Transportation Company.
- 81482 May 28—Approving location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Beloeil Station, P.Q.
- 81483 May 28—Authorizing the C.N.R. to make temporary changes in Zone 11 of the Montreal Terminal interlocking in the City of Montreal, P.Q.
- 81484 May 28—Permitting the removal of slow order at C.N.R. crossing of Main Street, Alexandria, Ont.
- 81485 May 29—Authorizing the Canadian Decalta Gas & Oil Limited to construct a private roadway across the company pipe line of the Interprovincial Pipe Line Company in Lot Subdivision 14, Section 30, Township 49, Range 21, W4M, Alberta.
- 81486 May 29—Authorizing the Edmonton Pipe Line Company Limited to lay its natural gas pipe line across the company pipe line of the Interprovincial Pipe Line Company in Lot Subdivision 14, Section 32, Township 52, Range 23, W4M, Alberta.
- 81487 May 29—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the Dominion Atlantic Railway Company under Section 9.
- 81488 May 29—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.P.R. tracks at Cutknife, Sask.
- 81489 May 29—Permitting the removal of slow order at crossing of Provincial Highway No. 98 and the railway of the Chesapeake & Ohio Railway Company about one mile north of Blenheim Junction, Ont.
- 81490 May 29—In the matter of the application of British Columbia Lumber Manufacturers Association, Plywood Manufacturers Association of British Columbia and Consolidated Red Cedar Shingle Association of British Columbia for an order disallowing, or in the alternative, postponing or suspending Item C-76-C and Rules 3-A and 14 of Supplement No. 64 to Canadian Freight Association, Agent J. F. Flynn's Tariff C.T.C. No. 529.
- 81491 May 30—Authorizing the Department of Highways of the Province of Alberta to widen the highway where it crosses the C.N.R. at mileage 44-65 Viking Subdivision, Alberta.
- 81492 May 30—Authorizing the C.N.R. to install a spring switch at the west end of the passing track at mileage 3-10 Albreda Subdivision, Alberta.
- 81493 June 1—Approving under the Maritime Freight Rates Act tolls published in Supplements to Tariff filed by the Dominion Atlantic Railway Company under Section. 9.
- 81494 June 1—Permitting the removal of slow order at C.P.R. crossing, second public crossing west of the Village of Elmstead, Ont.
- 81495 June 1—Authorizing the County of Simcoe, Province of Ontario, to widen Highway No. 10 across the C.P.R. in the Township of Tecumseh, Ontario.
- 81496 June 1—Amending Order No. 78180, dated January 28, 1952.
- 81497 June 1—Approving under the Maritime Freight Rates Act tolls published in Tariff as amended by Supplement and as published in Supplement filed by the Dominion Atlantic Railway Company under Section 9.
- 81498 June 1—Approving under the Maritime Freight Rates Act tolls published in supplements to Tariff filed by the Dominion Atlantic Railway Company under Section 9.
- 81499 June 3—Authorizing the C.P.R. to construct at its own expense a siding extension across Aldous Avenue, Ponoka, Alta.

- 81500 June 3—Approving agreed charge between the C.N.R., C.P.R., N.A.R. and Imperial Oil Limited, on petroleum products, from East Edmonton, Alta., to specific destinations on the N.A.R. west of Manir and Brownvale, Alta.
- 81501 June 3—Permitting the removal of slow order at crossing of The T.H. & B. Railway Company and Tapletown Road, near station at Grassies, Ont.
- 81502 June 3—Relieving the C.N.R. from erecting fencing on the east side of their property where it parallels Edinburgh Road, Guelph, Ont.
- 81503 June 4—Authorizing the C.P.R. to construct at its own expense a private siding across Higgins Avenue, Winnipeg, Man.
- 81504 June 4—Authorizing the Alberta Department of Highways to relocate its highway across the C.P.R. at mileage 90·38 Langdon Subdivision, Alberta.
- 81505 June 4—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Shellbrook, Sask.
- 81506 June 4—Amending Order No. 80514, dated December 30, 1952, whereby the C.N.R. was authorized to take possession of certain tracks and facilities of National Harbours Board, Great Northern Railway Company, C.P.R., The Burrard Inlet Tunnel and Bridge Company and the Pacific Great Eastern Railway Company.
- 81507 June 4—Permitting the removal of slow order at C.N.R. crossing of Sherbrooke Street, Montreal East, Que.
- 81508 June 4—Authorizing the Alberta Department of Highways to widen its highway across the C.P.R. at mileage 147·77 Brooks Subdivision, Alberta.
- 81509 June 4—Authorizing the Alberta Department of Highways to relocate its highway across the C.P.R. at mileage 91·92 Langdon Subdivision, Alberta.
- 81510 June 4—Authorizing the Alberta Department of Highways to relocate and widen its highway across the C.N.R. at mileage 1·49 Sheerness Subdivision, Alberta.
- 81511 June 4—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Medway, N.S.
- 81512 June 4—Authorizing the N.Y.C. Railroad Company to install protection at crossing of its railway and Highway No. 3, near Shedden, Ont.
- 81513 June 4—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.P.R. tracks at Whitewood, Sask.
- 81514 June 4—Approving proposed location of storage tanks, etc., of Shell Oil Company of Canada Limited, near the C.N.R. tracks at Pembroke, Ont.
- 81515 June 4—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Eaton, Sask.
- 81516 June 4—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Desboro Telephone Company.
- 81517 June 4—Permitting the removal of slow order at C.N.R. crossing, first public crossing south of the station at Elora, Ont.
- 81518 June 4—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Fox Valley, Sask.
- 81519 June 4—Authorizing the C.N.R. to install protection at crossing of 9th Line, Township of Trafalgar, Ontario.
- 81520 June 4—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking plant near Camrose, Alta.
- 81521 June 5—Permitting the removal of slow order at C.N.R. crossing of St. Jean Baptiste Street, Jonquiere, Que.
- 81522 June 5—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 81523 June 5—Authorizing the issuance of water licence to the Georgian Bay Tourist and Steamships Limited.
- 81524 June 5—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Victoria Subdivision, British Columbia.
- 81525 June 5—Relieving the C.P.R. from erecting cattleguards at crossing, mileage 53·33 on its Rosemary Subdivision, Alberta.
- 81526 June 5—Relieving the C.P.R. from maintaining cattleguards at certain crossings on its Coronation Subdivision, Saskatchewan.
- 81527 June 5—Relieving the C.P.R. from maintaining cattleguards at certain crossings on its Lake Cowichan Subdivision, British Columbia.
- 81528 June 5—Relieving the C.P.R. from maintaining cattleguards at certain crossings on its Estevan Subdivision, Saskatchewan.
- 81529 June 5—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Glenboro Subdivision, Manitoba.
- 81530 June 5—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Langdon Subdivision, Alberta.
- 81531 June 8—Approving proposed location of storage tank, etc., of Liquefied Gas Utilities Limited near the C.N.R. tracks at Lachine, Que.

- 81532 June 8—Approving proposed location of unloading facilities, etc., of the Department of National Defence near the C.N.R. tracks at Uplands, Ont.
- 81533 June 8—Approving operation of the C.P.R. trains over private siding serving Building Products and Coal Company Limited at mileage 19·28 Lac du Bonnet Subdivision, Manitoba.
- 81534 June 8—Requiring the Ontario Northland Railway to install protection at crossing of Highway No. 66, mileage 6·31 Kirkland Lake Subdivision, Ontario.
- 81535 June 8—Directing the B.C. Telephone Company to make changes in the rate grouping of certain telephone exchanges.
- 81536 June 8—Rescinding Order No. 74888, dated July 18, 1950, approving Traffic Agreement between C.P.R. and The Gulf St. Lawrence Telephone Company Limited.
- 81537 June 8—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the C.P.R. under Section 9.
- 81538 June 9—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Burstall Subdivision in the Provinces of Saskatchewan and Alberta.
- 81539 June 9—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Suffield Subdivision, Alberta.
- 81540 June 9—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Taber Subdivision, Alberta.
- 81541 June 9—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Wetaskiwin Subdivision, Alberta.
- 81542 June 10—Authorizing the Bell Telephone Company to construct its lines of telephone along certain public highways in the Township of Chatham, Ontario.
- 81543 June 10—Authorizing the Bell Telephone Company to erect its lines of telephone along certain highways in the Township of Chatham, Ontario.
- 81544 June 10—Authorizing the Ontario Department of Highways to construct an overhead bridge over the C.N.R. at mileage 43·8 Huntsville Subdivision, Ontario.
- 81545 June 10—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under Section 9.
- 81546 June 10—Authorizing the C.N.R. to reconstruct the bridge at mileage 10·7 Tete Jaune Subdivision, British Columbia.
- 81547 June 10—Approving plan, profile and book of reference of the Interprovincial Pipe Line Company showing the location of the deviation in its company pipe line from a point on the East bank of the St. Clair River in the vicinity of the City of Sarnia, Ont., to a point in the City of Sarnia in the Township of Sarnia, Ontario, etc.
- 81548 June 11—Approving location of storage tanks, etc., of the Irving Oil Company Limited, near the C.N.R. tracks, Rimouski, Que.
- 81549 June 11—Rescinding Order No. 81153, dated April 8, 1953, which authorized the C.N.R. to make track and signal changes in the siding serving Sylvania Electric (Canada) Limited, Drummondville, Que.
- 81550 June 11—Approving proposed location of storage tank, etc., of the C.P.R. for the storage of inflammable liquids near its tracks at Crowsnest, B.C.
- 81551 June 11—Approving proposed location of storage tank, etc., for the C.P.R. near its tracks at Tadanac, B.C.
- 81552 June 11—Approving proposed location of storage tank, etc., of the C.P.R., near its tracks at Cranbrook, B.C.
- 81553 June 11—Approving proposed location of storage tank, etc., of the C.P.R. near its tracks at Midway, B.C.
- 81554 June 11—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Wolseley, Sask.
- 81555 June 11—Requiring the C.N.R. to install protection at crossing of the highway at mileage 99·92 Armagh Subdivision.
- 81556 June 12—Authorizing the C.P.R. to make signal changes between mileage 0·0 and 27·0 Mountain Subdivision, British Columbia.
- 81557 June 12—Authorizing the Quebec Department of Roads to widen Highway No. 51 where it crosses the C.N.R. in the Municipality of St. Alexandre, Que.
- 81558 June 12—Permitting the removal of slow order at C.N.R. crossing, first crossing west of the station at St. Norbert, Que.
- 81559 June 12—Permitting the removal of slow order at C.P.R. crossing of 12th Street East, Calgary, Alta.
- 81560 June 12—Permitting the removal of slow order at C.P.R. crossing of Old Highway No. 1, Regina, Sask.
- 81561 June 12—Permitting the removal of slow order at C.P.R. crossing, second crossing west of Lambton Park, (Edmonton), Alta.
- 81562 June 12—Permitting the removal of slow order at C.P.R. crossing, just east of station at Cranbrook, B.C.
- 81563 June 12—Permitting the removal of slow order at C.P.R. crossing of 42nd Avenue, S.E., Calgary, Alta.

- 81564 June 12—Approving supplement to Tariff of The Algoma and Hudson Bay Railway Company to become effective August 1, 1953.
- 81565 June 12—Authorizing the C.N.R. to construct a siding extension across the public road immediately east of the station at Hiam, Ont.
- 81566 June 12—Authorizing the Alberta Department of Highways to construct its highway across the C.P.R. at mileage 51·67 Laggan Subdivision, Alberta.
- 81567 June 12—Authorizing the C.N.R. to use the bridges at mileages 90·2 and 129·1 Albreda Subdivision, British Columbia.
- 81568 June 12—Authorizing the Saskatchewan Power Corporation to construct a gas pipe line across the right of way of the Interprovincial Pipe Line Company in the Southeast quarter of Section 20, Twp. 30, Rge. 14, W3M, Saskatchewan.
- 81569 June 12—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Maple Creek Subdivision, Alberta.
- 81570 June 12—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Arcola Subdivision, Saskatchewan.
- 81571 June 12—Authorizing the C.N.R. to use the bridges at mileages 83·3, 95·05 and 128·8 Clearwater Subdivision, British Columbia.
- 81572 June 15—Authorizing the C.N.R. to use the bridge across Boulder Creek, mileage 82·5 Clearwater Subdivision, British Columbia.
- 81573 June 15—Authorizing the C.N.R. to construct an industrial spur across Provincial Highway No. 14/33 near Picton, Ont.
- 81574 June 15—Authorizing the C.N.R. to use the bridge over Stoney Creek at mileage 10·6 Albreda Subdivision, British Columbia.
- 81575 June 15—Amending Order No. 68357, dated December 19, 1946, referring to accident at C.N.R. crossing near station at Howick, Que.
- 81576 June 15—Authorizing the Township of Tay, Ontario, to construct a road across the C.N.R. at mileage 66·80 Midland Subdivision, Ontario.
- 81577 June 15—Approving the operation of the C.N.R. trains over the private siding serving the Trent Valley Sand and Stone Limited, Township of Seymour, Ontario.
- 81578 June 15—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 10 near station at Hardwood Ridge, N.B.
- 81579 June 15—Authorizing the Corporation of the Parish of St. Eustache, Que., to construct Duquette Boulevard across the C.N.R. at mileage 2·67 Oka Subdivision, Quebec.
- 81580 June 15—Restricting the speed of trains over the C.N.R. crossing of Fourth Avenue, Regina, Sask.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

July 15, 1953

No. 8

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 81592

WEDNESDAY, the 17th day of June, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

In the Matter of Agreed Charge between certain railway companies, steamship companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, which agreed charge was approved by Order No. 80206, dated November 17, 1952.

File No. 40994-38

Whereas Tide Water Associated Oil Company (Canada) Ltd., has made application under subsection 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products shipped from its Toronto and Montreal plants to all points of destination shown in Canadian Freight Association Agreed Charges C.T.C. (A.C.) No. 49, and has agreed to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the Agreed Charge approved by Order No. 80206, dated November 17, 1952, be, and it is hereby, fixed for the transport of petroleum products, as described in paragraph B of the said Agreed Charge, by the railway companies and steamship companies which are parties thereto, from Toronto and Montreal to all points of destination shown in Canadian Freight Association Agreed Charges C.T.C. (A.C.) No. 49, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid, is to come into operation.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81637

In the matter of the application of the Alberta Forest Products Association for an Order suspending certain provisions of Canadian Freight Association, Agent J. F. Flynn's tariff C.T.C. No. 101:

File No. 26901-62-7

MONDAY, the 22nd day of June, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Item C-76-G of Supplement No. 122, and the competitive designation of rates shown on pages 3 to 6 inclusive of Supplement No. 121 to Canadian Freight Association, Agent J. F. Flynn's tariff C.T.C. No. 101 be, and they are hereby, suspended as of the date of this Order:

It is further ordered that during the period of suspension the provisions of Agent J. F. Flynn's tariff C.T.C. No. 610 shall be made applicable to the rates shown on pages 3 to 6 inclusive of Supplement No. 121 to Agent J. F. Flynn's tariff C.T.C. No. 101.

JOHN D. KEARNEY,

Chief Commissioner.

ORDER No. 81666

In the matter of agreed Charge between certain railway companies, steamship companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, which agreed charge was approved by Order No. 80206, dated November 17, 1952:

File No. 40994-38

WEDNESDAY, the 24th day of June, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Panther Oil & Grease Mfg. Co. of Canada Limited has made application under subsection 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, and has agreed to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the Agreed Charge approved by Order No. 80206, dated November 17, 1952, be, and it is hereby, fixed for the transport of petroleum products, as described in paragraph B of the said Agreed Charge, by the railway

companies and steamship Companies which are parties thereto, from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid is to come into operation.

JOHN D. KEARNEY,
Chief Commissioner.

In the matter of consideration of the improvement of safety conditions at the subway at the intersection of Highway No. 29 and the railway of the Canadian National Railways, mileage 10·12 Montfort Subdivision, in the Village of St. Eustache-sur-le-Lac, Que.;

AND

Consideration of the matter of apportionment of the costs if such improvement is ordered.

File No. 2342·34

Before:

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Appearances:

J. W. G. MACDOUGALL, G. M. COOPER, and E. D. PINSONNAULT, for the Canadian National Railways.

L. METHOT, Q.C., for the Department of Roads.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

The present application is from the Municipality of the Village of St. Eustache, represented by the Provincial Department of Roads, whose solicitor stated that the Department was acting on behalf of the Applicant and that it was willing to abide by the decision of the Board with respect to the distribution of the costs of construction and maintenance.

The road involved exists since 1823 and was macadamized in 1913; it is now known as Highway No. 29. In 1915 the Canadian Northern Railway Company, now the Canadian National Railways, constructed a 25-foot wide subway, which was adequate at that time, as there were no motor vehicles but horse-drawn vehicles only. Today, the situation is quite different; Highway No. 29 leads to Oka and other summer resorts and traffic thereon is heavy. The population has increased substantially and hundreds of children must use the subway on their way to school; it is also used daily by some forty cyclists, buses, and trucks.

The subway is only 25 feet wide and, according to the estimates, it would cost \$100,000 to widen it, which is too heavy an expenditure. The Department of Roads suggests that a pedestrian crossing be built on each side of the subway, the cost of which is estimated at \$62,000. The Department offers to pay 50 per cent of the costs of construction and maintenance, and I am of the opinion that this offer is reasonable. Therefore, I would direct:

1. That the Canadian National Railways reconstruct the northwest and southeast wings of the existing tunnel at the intersection of public Highway No. 29 and the Canadian National Railways' tracks, in the Village of St. Eustache-sur-le-Lac, Province of Quebec, at mileage 10·12 Montfort Subdivision, in order to conform to the axis of the Highway, and to construct a pedestrian subway on each side of the present opening, so as to permit the entire width of the existing roadway inside the subway to be used for all vehicular traffic, as shown on Plan No. C-13751, dated October 28, 1949, on file with the Board under file No. 2342·34.

2. That the reconstruction of the wings of the existing subway and the construction of the pedestrian subways be made in accordance with the requirements of General Order No. 589; detail plans showing the layout thereof to be submitted for the approval of an Engineer of the Board.

3. That the cost of construction and maintenance of the works hereby ordered be borne and paid as follows: Fifty per cent by the Canadian National Railways and fifty per cent by the Department of Roads of the Province of Quebec.

An Order was issued to this effect on April 21, 1953.

OTTAWA, May 30, 1953.

A. SYLVESTRE,
Deputy Chief Commissioner.

I agree:

H. B. CHASE, *Commissioner.*

Dans l'affaire de la considération de l'amélioration des conditions de sécurité au tunnel à la croisée de la route n° 29 et de la voie des Chemins de fer Nationaux du Canada, au mille 10·12 de la subdivision Montfort, dans le village de Saint-Eustache-sur-le-Lac, P.Q.

ET

Considération de la question de la répartition des frais de telles améliorations si elles sont décrétées.

Dossier n° 2342·34

Requête entendue par:

A. SYLVESTRE, C.R., *Commissaire en chef suppléant,*

H. B. CHASE, C.B.E., *Commissaire.*

Ont comparu:

J. W. G. MACDOUGALL, G. M. COOPER, et E. D. PINSONNAULT, *pour les Chemins de fer Nationaux du Canada.*

L. MÉTHOT, C.R., *pour le Ministère de la Voirie de Québec.*

JUGEMENT

SYLVESTRE, *Commissaire en chef suppléant,*

La présente requête est de la part de la municipalité du Village de Saint-Eustache, représentée par le Ministère Provincial de la Voirie qui a déclaré par son procureur que le département remplaçait la Requérante et a ajouté qu'il acceptait d'avance la décision de la Commission quant à la répartition des frais de construction et d'entretien.

Le chemin dont il s'agit existe depuis 1823 et fut macadamisé en 1913: aujourd'hui il est connu sous le nom de Route n° 29. En 1915, le chemin de fer Grand Nord, (aujourd'hui les Chemins de fer Nationaux du Canada), a construit un tunnel d'une largeur de 25 pieds, ce qui était suffisant à cette période parce qu'il n'y avait pas d'automobiles mais seulement des voitures traînées par des chevaux. Aujourd'hui la situation est bien différente, cette route n° 29 conduit à Oka et autres endroits de villégiature et la circulation y est considérable. La population a augmenté de beaucoup, des centaines d'enfants sont obligés de passer par le tunnel pour se rendre à l'école; il y passe aussi par jour une quarantaine de cyclistes, des autobus et des camions.

Le tunnel n'a que 25 pieds de largeur et l'élargir coûterait \$100,000 d'après les estimés, ce qui est trop considérable, et le département de la Voirie suggère qu'un passage à piétons soit construit de chaque côté du tunnel et le coût de ces travaux est estimé à \$62,000. Le département offre de payer 50% du coût de construction et d'entretien et j'en viens à la conclusion que cette offre est raisonnable. En conséquence j'ordonne par les présentes aux chemins de fer Nationaux du Canada:—

1. De reconstruire les ailes nord-ouest et sud-est du présent tunnel à la croisée de la voie publique n° 29 et la voie du chemin de fer National du Canada, dans le village de Saint-Eustache-sur-le-Lac, province de Québec, au mille 10·12, subdivision de Montfort, de façon à les rendre conformes au centre de la route, et de percer un tunnel pour piétons de chaque côté de la présente ouverture de telle sorte que la largeur totale de la présente chaussée à l'intérieur du tunnel serve à la circulation routière, ainsi qu'il est indiqué sur le plan n° C-13751, en date du 28 octobre 1949, versé au dossier de la Commission portant le numéro 2342·34.

2. De reconstruire les ailes du présent tunnel et de percer les tunnels pour piétons conformément aux dispositions de l'ordonnance générale n° 589, des plans détaillés en indiquant le tracé devant être soumis à l'approbation d'un ingénieur de la Commission.

3. De supporter et de payer les frais des travaux de construction et d'entretien de la façon suivante: 50 pour cent par les chemins de fer Nationaux du Canada et 50 p. 100 par le ministère de la Voirie de la province de Québec.

Une ordonnance a été émise à cet effet le 21 avril 1953.

OTTAWA le 30 mai 1953.

A. SYLVESTRE,
Commissaire en chef suppléant.

J'agrée

H. B. CHASE

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81581 June 15—In the matter of marshalling equipment on passenger trains.
- 81582 June 15—Authorizing the C.N.R. to operate their trains over the switches at mileage 130.53 and 130.07 Alexandria Subdivision, Ontario.
- 81583 June 15—Authorizing the New York Central Railroad to install automatic interlocking signals in lieu of the existing protection at crossing of its railway and the C.P.R. at Finch, Ontario.
- 81584 June 16—Authorizing the C.P.R. to remove the station building at Proulx, P.Q.
- 81585 June 17—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the C.N.R. under Section 3.
- 81586 June 17—Approving operation of C.P.R. trains over the private siding serving Green's Stove and Furnace Limited, Winnipeg, Man.
- 81587 June 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Fisher Branch, Man.
- 81588 June 17—Approving proposed location of vertical storage tank, etc., of Imperial Oil Limited, near C.P.R. tracks at Kerrobert, Saskatchewan.
- 81589 June 17—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.N.R. tracks at Eston, Saskatchewan.
- 81590 June 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Redvers, Saskatchewan.
- 81591 June 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Stoughton, Saskatchewan.
- 81592 June 17—In the matter of Agreed Charge between certain railway companies, steamship companies and oil companies on route of giving oils, etc from stations and/or places referred to in paragraph C(1) of the said agreed charge to stations and/or places referred to in paragraph C(2) thereof, which agreed charge was approved by Order No. 80206, dated November 17, 1952.
- 81593 June 17—Authorizing Statute Labour Board of the Township of Harrison, Ontario, to construct a road across the C.P.R. near mileage 49 Parry Sound Subdivision.
- 81594 June 17—Authorizing the C.N.R. to reconstruct the bridge over Clemina Creek, B.C.
- 81595 June 17—Approving Standard Freight Tariff C.T.C. No. 1 of E. E. Cooper, Fort Nelson, B.C.
- 81596 June 17—Requiring the C.P.R. to install protection at crossing of its railway and highway No. 10, Town of Newcastle Bridge, N.B.
- 81597 June 17—Requiring the C.P.R. to install protection at crossing of its railway and highway No. 4 near station at Flesherton, Ontario.
- 81598 June 17—Authorizing the Township of Caledon to improve the sight lines, by removing five hundred cubic yards of earth from the northeast and southeast quarters of the crossing of the railway and the C.P.R. and the highway north of the station at Inglewood, Ontario.
- 81599 June 17—Permitting the removal of slow order at C.P.R. and 11th Avenue East, near station in the City of Swift Current, Saskatchewan.
- 81600 June 17—Authorizing the Liquifuels Limited to construct and maintain two oil pipe lines and one steam line under the tracks of the Toronto Harbour Commissioners on Unwin Avenue, Toronto, Ontario.
- 81601 June 17—Amending Order No. 74552, dated May 27, 1950 in regard to branch line to be constructed by the Toronto Harbour Commissioners to serve the land of the Liquor Control Board of Ontario, south of Fleet Street, Toronto, Ontario.
- 81602 June 17—Authorizing the C.N.R. to remove the caretaker at Middlemiss, Ontario.
- 81603 June 17—Authorizing the C.N.R. to use the bridge at Mileage 4.85, Yale Subdivision, B.C.
- 81604 June 17—Permitting the removal of slow order at New York Central Railroad Company crossing of 2nd Street, Cornwall, Ontario.
- 81605 June 17—Approving proposed location of storage tank, etc., of Imperial Oil Limited near the C.P.R. tracks at Jansen, Saskatchewan.
- 81606 June 17—Amending Order No. 80835, dated February 16, 1953, in regard to apportionment of cost of construction and maintenance of the subway to be constructed at mileage 19.2, Rimouski Subdivision, C.N.R., Town of Rimouski, P.Q.
- 81607 June 17—Approving under Maritime Freight Rates Act tolls published in tariffs and supplements filed by the Dominion Atlantic Railway Company under sections 3 and 9.

- 81608 June 18—Permitting the removal of slow order at C.N.R. crossing north of station at Grande Ligne, Quebec.
- 81609 June 18—Permitting the removal of slow order at C.N.R. crossing and Vinet Street, Montreal, P.Q.
- 81610 June 18—Permitting the removal of slow order at C.N.R. crossing of Provincial highway No. 7, north of Sunderland, Ontario.
- 81611 June 18—Permitting the removal of slow order at C.N.R. crossing of provincial highway No. 2 near station at Thamesville, Ontario.
- 81612 June 18—Requiring that the existing protection by watchmen at C.P.R. crossing and Quebec Street, London, Ontario, as provided by Order No. 55401, dated December 30, 1937, and the speed limitation of fifteen miles an hour be maintained.
- 81613 June 18—Permitting removal of slow order at C.P.R. crossing north of railway diamond at Medonte, Ontario.
- 81614 June 18—Permitting the removal of slow order at C.N.R. and Eglinton Avenue east of station at Scarboro, Ontario.
- 81615 June 18—Permitting the removal of slow order at C.N.R. crossing of Highway 47 west of station at Uxbridge, Ontario.
- 81616 June 18—Approving proposed location of storage tanks, etc., of Champlain Oil Products Limited near C.P.R. tracks at Mont Laurier, P.Q.
- 81617 June 19—Permitting the removal of slow order at C.N.R. crossing of Marlborough Street east of station at Cornwall Subdivision.
- 81618 June 19—Authorizing C.N.R. to install blocks signals in the province of British Columbia from mileage 0-00 to mileage 25-0 Ashcroft Subdivision.
- 81619 June 19—Authorizing the C.N.R. to construct a bridge over Lakelse River, B.C.
- 81620 June 19—Authorizing the Dominion Atlantic Railway Company to reconstruct the bridge over Big Joggins River, Province of Nova Scotia.
- 81621 June 19—Authorizing the C.N.R. to construct a bridge over Coldwater Creek, B.C.
- 81622 June 19—Authorizing the C.N.R. to reconstruct the trestle at mileage 7-15, Grand'Mere Subdivision, P.Q.
- 81623 June 19—Permitting the removal of slow order at C.N.R. crossing near station at East Edmonton, Alberta.
- 81624 June 19—Permitting the removal of slow order at C.N.R. crossing at mileage 31-82, Togo Subdivision.
- 81625 June 19—Authorizing the C.N.R. to construct railway tracks across Birchmount Avenue and Kennedy Road, Township of Scarboro, Ontario.
- 81626 June 19—Authorizing the C.N.R. to relocate its line of railway between the point of junction of its Sydney and Inverness Subdivision at Inverness Junction, Nova Scotia on the Inverness Subdivision mileage 5-61 on the eastern approach of the Canso causeway.
- 81627 June 19—Approving plan, profile and book of reference showing location of Trans Mountain Oil Pipe Line Company pipe line within the Yale Division of the Yale District, Province of B.C., etc.
- 81628 June 19—Amending Order No. 80495, dated December 30, 1952, in the matter of approval of drawing submitted to the C.N.R. by the Norfolk Propane Limited showing location of facilities of storage of liquefied petroleum gases at Simcoe, Ontario.
- 81629 June 19—Authorizing the Toronto Harbour Commissioners to relocate a part of their main lead track across the Circulating Channel south of the Ship Channel Turning Basin, Toronto, Ontario.
- 81630 June 19—Approving operation of C.P.R. train over private siding of Northern Asbestos and Building Supplies Limited, Calgary, Alberta.
- 81631 June 19—Authorizing the C.N.R. to cross a public road at Fort Garry, Manitoba, with a spur to serve Trysson Manufacturing Limited.
- 81632 June 19—Extending the time within which protection is to be installed at C.N.R. crossing of the Highway near Rosedale, B.C.
- 81633 June 19—Permitting the removal of slow order at C.N.R. crossing near the station of the Village of Little Bras d'Or, N.S.
- 81634 June 19—Relieving the C.P.R. from erecting and maintaining cattle guards at certain highway crossings on its Altawan Subdivision, Saskatchewan.
- 81635 June 19—Approving under Maritime Freight Rates Acts tolls published in tariffs and supplements to tariffs filed by the Dominion Atlantic Railway Company under section 9.

- 81636 June 20—Authorizing the C.N.R. to operate their trains through a portion of the Montreal Terminals Interlocking, City of Montreal, P.Q.
- 81637 June 22—In the matter of the application of the Alberta Forest Products Association for an Order suspending certain provisions of Canadian Freight Association, Agent J. F. Flynn's tariff C.T.C. No. 101.
- 81638 June 22—Approving under the Maritime Freight Rates Act tolls published in tariffs and supplements to tariffs filed by the C.N.R. under Section 3.
- 81639 June 22—In the matter of acceptance by railway companies from Imperial Oil Limited of I.C.C. tank cars and in the matter of Order No. 75721, dated December 15, 1950, and No. 80236, dated November 20, 1952.
- 81640 June 22—Approving plan, profile and book of reference showing location of Trans Mountain Oil Pipe Line Company pipe line within the municipality of Sumas, Province of B.C.
- 81641 June 22—Authorizing the C.N.R. and C.P.R. to operate their tracks through the interlocking near Bienfait, Sask.
- 81642 June 22—Authorizing the C.P.R. to divert the road allowance between the Southeast quarter of Section 1, Township 8, Range 30, W2M and the Southwest quarter of Section 6, Township 8, Range 29, W2M.
- 81643 June 23—Approving under Maritime Freight Rates Act tolls published in tariffs and supplements filed by the Dominion Atlantic Railway Company under Section 9.
- 81644 June 23—Requiring the C.N.R. to install protection at crossing of Capreol Road, Sudbury Terminals Subdivision, Ontario.
- 81645 June 23—In the matter of application of the C.P.R. for recommendation by the Board to the Governor in Council for the sanctioning of an Agreement, dated August 27, 1937, between the C.N.R. and C.P.R. with reference to joint use by the C.P.R. of the passenger station and grounds at Brockville, Ontario. (Dispensing with publication of notice)
- 81646 June 23—In the matter of application of the C.P.R. for recommendation of the Board to the Governor in Council for the sanctioning of an Agreement, dated August 27, 1937, to the C.N.R. and C.P.R. with reference to the joint use by the C.P.R. near station at Brockville, Ont.
- 81647 June 23—Dispensing with publication of notice the application in the Canada Gazette and consent of the shareholders in the matter of application of the C.P.R. for recommendation by the Board to the Governor in Council to sanctioning an Agreement, dated October 25, 1927, and an Agreement, dated May 19, 1950, in amendment of substitution of certain provisions of the former Agreement between the C.N.R., the Canadian Northern Railway Company and the C.P.R. with reference to joint use of trackage at Brockville, Ontario.
- 81648 June 23—In the matter of the application of the C.P.R. for recommendation by the Board to the Governor in Council to sanctioning of an Agreement, dated October 25, 1927 and an Agreement, dated May 19, 1950, in amendment and substitution of certain provisions of the former agreement, between the Canadian National Railways, the Canadian Northern Railway Company, and the C.P.R. with reference among other matters, to the joint use of certain trackage, Brockville, Ontario.
- 81649 June 23—Relieving the C.P.R. from erecting and maintaining cattle guards at certain crossing on the Red Deer Subdivision, Alberta.
- 81650 June 23—Amending Order No. 77786, dated November 21, 1951, authorizing installation of protection at crossing of Coxheath, Nova Scotia.
- 81651 June 23—Permitting the removal of slow order at C.N.R. crossing, Eglinton Avenue, Toronto, Ontario.
- 81652 June 23—Restricting the speed of train at crossing of Lafleur Avenue by the C.P.R. at Ville LaSalle, P.Q.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

August 1, 1953

No. 9

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

ORDER No. 81735

In the matter of the application of the Hudson's Bay Company for a licence under section 10 of The Transport Act, 1938:

And in the matter of Order No. 81174, dated April 13th, 1953:

File No. 42076-34

MONDAY, the 6th day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 81174, dated April 13th, 1953 be, and it is hereby, amended by striking out the words and figures "H.B.C. Barge No. 254-175556-216" in the list of vessels given in paragraph numbered 1 of the said Order.

HUGH WARDROPE,

Assistant Chief Commissioner,

ORDER No. 81664

In the matter of Agreed Charge between Canadian National Railways Company, Canadian Pacific Railway Company, Northern Alberta Railways and Imperial Oil Limited, on petroleum products as therein specified from East Edmonton, Alberta, to specific destinations on the Northern Alberta Railways West of Manir and Brownvale, in the Province of Alberta, which Agreed Charge was approved by Order No. 81500, dated June 3rd, 1953:

File No. 40994-42

WEDNESDAY, the 24th day of June, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner,*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas McColl-Frontenac Oil Company Limited, of Montreal, Quebec, has made application under subsection 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from East Edmonton, Alberta, to destinations on the Northern Alberta Railways, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the Agreed Charge approved by Order No. 81500, dated June 3rd, 1953, be, and it is hereby, fixed for the transport of petroleum products of McColl-Frontenac Oil Company Limited, as described in paragraph B of the said Agreed Charge, by the railway companies which are parties thereto, from East Edmonton, Alberta, to destinations on the Northern Alberta Railways, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said Charge, fixed as aforesaid, is to come into operation.

HUGH WARDROPE,
Assistant Chief Commissioner,

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, APRIL, 1953

Railway Accidents	196	Killed 11	Injured 207
Highway Crossing Accidents	33	Killed 18	Injured 41
Total	229	Killed 29	Injured 248
		<i>Killed</i>	<i>Injured</i>
Passengers		2	39
Employees		2	158
Others		25	51
Total		29	248

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

<i>Killed</i>	<i>Injured</i>		NOVA SCOTIA
—	1		Bicycle ran into side of train.
			NEW BRUNSWICK
—	3		Automobile ran into side of train. Licence: N.B. 37-767.
			QUEBEC
—	5		Automobile ran into side of train. Licence: Que. C-52-F-50814.
3	2		Automobile drove onto crossing in front of approaching train and was struck. Licence: NY 2F-4540.
—	1		Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. 64-402.
1	—		Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que F-570.
3	1		Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 66542.
—	2		Automobile ran into side of train. Licence: Que. 171-850.
			ONTARIO
1	—		Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-35172.
1	—		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 96-H-39.
—	1		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. P-1174.
—	1		Automobile ran into side of train. Licence: Ont. DU-222.
1	1		Auto truck ran into side of train. Licence: Ont. C-58698.
—	1		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 36-S-47.
—	1		Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 56-092-C.
—	1		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. F-7341.
—	1		Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-69921.
—	2		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. L-8056.
—	1		Child crawled under train at crossing and train started to move.
2	—		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. Y-1399.
—	4		Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 33-447-B.
—	1		Oil truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-28371.
1	1		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8-M-189.
1	1		Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. FZ-796.
—	1		Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	2		Automobile drove onto crossing in front of approaching train and was struck. Licence not given.

Killed Injured

MANITOBA

—	1	Automobile ran into side of train. Licence: Man. 9-N-722.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 4-V-652.
1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 1-T-187.
—	1	Automobile ran into side of train. Licence: Man. 1-T-239.

ALBERTA

1	2	Automobile ran into side of train. Licence: Alta. 68-I-42.
1	1	Automobile ran into side of train. Licence: Alta. 60-Z-95.

Of the 33 accidents at highway crossings, 24 occurred at unprotected crossings, and 9 at protected crossings. Seventeen occurred after sunrise and sixteen after sunset.

OTTAWA, Ont. May 22, 1953.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA, MAY, 1953

Railway Accidents	240	Killed	15	Injured	275
Highway Crossing Accidents	37	Killed	17	Injured	67
Total	277	Killed	32	Injured	342
		<i>Killed</i>		<i>Injured</i>	
Passengers			1		64
Employees			6		197
Others			25		81
Total			32		342

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed Injured

PRINCE EDWARD ISLAND

—	1	Automobile ran into side of train. Licence: PEI 20-017.
---	---	---

NOVA SCOTIA

—	1	Automobile ran into side of engine. Licence: N.S. 54764.
---	---	--

QUEBEC

—	1	Pedestrian passed under gates struck by train.
—	2	Automobile truck ran into side of train. Licence: Que. N473.
1	—	Motorcycle drove onto crossing in front of approaching train and was struck. Licence: Que. M-17696.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 220-144.
3	2	Automobile ran into side of engine. Licence: Que. 307678.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 161298.

ONTARIO

1	—	Automobile ran into side of train. Licence: Ont. 8076-E.
—	1	Pedestrian walked into side of engine.
1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-8031.
2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 514L2.
—	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 169K2.
1	—	Cyclist drove onto crossing in front of approaching train and was struck.
1	1	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 8647-S.

Killed Injured

- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. H2162.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-48135.
- 2 Motorcycle drove onto crossing in front of approaching train and was struck. Licence not given.
- 1 Automobile ran into side of engine. Licence: Ont. 366X6.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 32V54.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. BH268.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 46996C.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. M6439.
- 1 1 Automobile ran into side of train. Licence: Ont. 335-V-3.
- 5 Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
- 1 Trailer truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 67965-B.

MANITOBA

- 2 Auto truck struck by track motor car. Licence: Man. 53715.
- 1 26 Bus ran into side of engine. Licence: Man. PSV12.

SASKATCHEWAN

- 1 Auto truck ran into side of engine. Licence: Sask. F43-322.
- 2 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. 13-032.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. C-12551.

ALBERTA

- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. C-50856.
- 1 Auto truck ran into side of train. Licence not given.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 26F77.
- 1 Automobile truck drove onto crossing in front of approaching train and was struck. Licence: Alta. C-54387.
- 1 Automobile truck drove onto crossing in front of approaching train and was struck. Licence: Alta. F63933.

BRITISH COLUMBIA

- 1 Automobile truck drove onto crossing in front of approaching train and was struck. Licence: B.C. C-87-362.

Of the 37 accidents at highway crossings, 26 occurred at unprotected crossings, and 11 at protected crossings. Twenty-two occurred after sunrise and fifteen after sunset.
OTTAWA, Ont. July 9, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81653 June 23—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the Canadian National Railways under Sections 3 and 9.
- 81654 June 23—Approving revisions to Tariffs C.T.C. Nos. 6716, 6652, 6668, 6456, 6471, 6657, 6691 and 6697 filed by The Bell Telephone Company of Canada.
- 81655 June 23—Authorizing the Municipality of Montreal South, P.Q., to widen and re-locate Ste. Helene Street across the C.N.R. in the Town of Montreal South, P.Q.
- 81656 June 23—Relieving the C.N.R. from erecting fencing in the Municipalities of Sliding Hills, No. 273, Invermay, No. 305, Lakeview, No. 337, Lakeside, No. 338, St. Peter, No. 369 and Humboldt, No. 370, Sask.
- 81657 June 24—Authorizing the C.P.R. to reconstruct its bridge over Oxford Street, London, Ont.
- 81658 June 24—Authorizing the C.P.R. to remove the agent at Bishepric, Sask., mileage 31.1 Expanse Subd.
- 81659 June 24—Permitting the removal of slow order at C.N.R. crossing and highway near the station at St. Edward, Que., mileage 118.9 Drummondville Subd.
- 81660 June 24—Approving Plan No. S.D. 3541, revised to June 3, 1953, showing the protection signals as installed at the crossing of Highway No. 58 and C.N.R. at Welland Junction, Ont.
- 81661 June 24—Authorizing the Township of Ramsay, Ont., to construct a subway to replace the crossing of the highway and the C.N.R., Township of Ramsay, County of Lanark, Ont.
- 81662 June 24—Authorizing the C.N.R. to operate under the overhead bridge at mileage 27.6, Grimsby Subd., Ont.
- 81663 June 24—Permitting the removal of slow order at C.P.R. crossing near the station at Cooksville, Ont., mileage 13.87, Galt Subd.
- 81664 June 24—Approving Agreed Charge between C.N.R., C.P.R., Northern Alberta Railways and Imperial Oil Limited, on petroleum products as therein specified from East Edmonton, Alberta, to specific destinations on the Northern Alberta Railways West of Manir and Brownvale, in the Province of Alta.
- 81665 June 24—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under sections 3 and 9.
- 81666 June 24—Approving Agreed Charge between certain railway companies, steamship companies and The British American Oil Co. Ltd., Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof.
- 81667 June 24—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the C.P.R. under section 9.
- 81668 June 24—Restricting the speed of trains over the C.P.R. crossing of Highway No. 11 Town of Mount Laurier, Que.
- 81669 June 24—Authorizing the C.N.R. to install protection at the crossing of the highway at mileages 10.33 and 10.55 Dartmouth Subdivision, N.S.
- 81670 June 25—Approving the operation of the C.P.R. engines, cars and trains over a private siding extension serving Kaleden Co-Operative Growers' Association, Ka'eden, B.C.
- 81671 June 25—Requiring the C.P.R. to install protection at the crossing of the highway near the station at Kent Bridge, Ont., mileage 54.65 Windsor Subd.
- 81672 June 25—Approving proposed location of storage tank, etc., of Imperial Oil Limited near the C.N.R. tracks at Mall'ig, Alta.
- 81673 June 25—Authorizing the C.P.R. to construct additional railway track across 55th Street, Red Deer, Alta., mileage 0.3 Leduc Subd.
- 81674 June 25—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 9.
- 81675 June 25—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the C.N.R. under section 3.
- 81676 June 25—Authorizing the Ontario Department of Highways to construct a public pedestrian crossing over the C.P.R. in Lot 33, Concession 14, Township of West Ferris, Ont.
- 81677 June 26—Authorizing the C.N.R. to improve the sight lines at the crossing of the highway, P.Q., at mileage 97.93.
- 81678 June 26—Requiring the C.P.R. to install protection at the crossing of the Highway No. 12, Ont., mileage 16.78 Port McNicoll Subd.
- 81679 June 26—Authorizing the C.N.R. to construct a car ferry slip in the harbour at Prince Rupert, B.C.
- 81680 June 26—Amending Order No. 79189, dated June 16, 1952,

- 81681 June 26—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the Dominion Atlantic Railway company under Section 9.
- 81682 June 26—Granting the Canadian Fina Oil, Limited leave to construct a 33 foot wide road across the Interprovincial Pipe Line Company, and a 3-inch diameter flow line across the Interprovincial Pipe Line Company in the Northeast quarter of Section 30, Township 49, Rge. 21, W4M, Alta.
- 81683 June 26—Permitting the removal of slow order at C.P.R. crossing, near station at Kinley, Sask.
- 81684 June 26—Authorizing the C.N.R. to make changes to the automatic block signals at Clover Bar, Alta.
- 81685 June 26—Restricting the speed of trains over the C.N.R. crossing near station at Kitchener, Ont., mileage 62·26 Brampton Subd.
- 81686 June 26—Approving Plan showing signal protection at the junction of the Harte and Gladstone Subds. of the C.N.R. at the East Tower, Portage la Prairie, Man.
- 81687 June 26—Approving proposed location of storage tank, etc., of the C.N.R. near their tracks at St. John's, Nfld.
- 81688 June 26—Authorizing the C.N.R. to operate their trains over certain crossings in the City of Montreal, Que.
- 81689 June 29—Authorizing the Algoma Central and Hudson Bay Railway Company to use and operate the bridge over the Hawk River, Ontario, at mileage 163·6.
- 81690 June 29—Approving the location and details of a frame shelter to be erected by the C.N.R. at Perth Road, Ont., at mileage 73·95 Smiths Falls Subd.
- 81691 June 29—Permitting the removal of slow order at C.P.R. crossing near the station at Gunton, Man., mileage 32·7 Arborg Subd.
- 81692 June 29—Authorizing The Algoma Central and Hudson Bay Railway Company to use and operate the bridge across the Little Agawa Creek, Ont., at mileage 109·7.
- 81693 June 30—Authorizing the Alberta Department of Highways to widen its highway where it crosses the C.P.R. in the Northwest quarter of Section 23, Twp. 52, Rge. 24, W4M, Alta., at mileage 171·01 Willingdon Subd.
- 81694 June 30—Authorizing the C.N.R. to improve the sight lines at the crossing of the highway at mileage 99·60 Armagh Subd., Que.
- 81695 June 30—Relieving the C.N.R. from maintaining fencing in the Rural Municipalities of Biggar No. 347, Grandview No. 349 and Prairiedale No. 321, in the Provinces of Man. and Sask.; and Special Area No. 3, in Alta.
- 81696 June 30—Authorizing the C.N.R. to improve the sight lines at the crossing of the highway at mileage 99·05 Armagh Subd., Que.
- 81697 June 30—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.
- 81698 June 30—Approving the diversion of the Quebec Central Railway Co.'s line of railway from a point in Lot 447, Rge. 7, Twp. of Ireland, in the Mun. of Black Lake, mileage 64·19 Quebec Subd., to a point in Lot 17-C, Rge. 5, Twp. of Thetford, Parish of St. Antoine de Pontbriand, mileage 72·42, Quebec Subd., in the Province of Que.
- 81699 June 30—Authorizing the C.P.R. to install protection at the crossing of Highway No. 41, at Roblindale, Ont., at mileage 68·13 Belleville Subd.
- 81700 June 30—Authorizing the C.P.R. to install protection at the crossing of Highway No. 79 at North Bothwell, Ont., mileage 41·98 Windsor Subd.
- 81701 June 30—Authorizing the C.N.R. to improve the sight lines at the crossing of the highway at mileage 99·25 Armagh Subd., Que.
- 81702 June 30—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under section 9.
- 81703 June 30—Approving under the Maritime Freight Rates Act tolls published in Tariffs filed by the C.N.R. under section 3.
- 81704 July 2—Restricting the speed of trains over the C.P.R. crossing of Russell Road, south of the Hurdman Tower, Ont., mileage 3·55 Sussex Street Subd.
- 81705 July 2—Approving Supplemental Agreement between The Bell Telephone Company of Canada and The Manitoba Telephone System.
- 81706 July 2—Approving Supplement to Traffic Agreement between the Bell Telephone Company of Canada and the Urban & Rural Telephone Company, Limited.
- 81707 July 2—Authorizing the Quebec Department of Roads to construct Laplante Road across the C.N.R. in the Parish of Chateau Richer, County of Montmorency, Que., mileage 14·0 Montmorency Subd.
- 81708 July 2—Approving proposed location of storage tank, etc., of the C.N.R. for the handling and storage of inflammable liquids Class II at the Spadina Avenue Roundhouse, Toronto, Ont.

- 81709 July 2—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Tofield, Alta.
- 81710 July 2—Approving proposed location of storage tank, etc., of Williams Propane Limited, near the C.N.R. tracks at Prince George, B.C.
- 81711 July 2—Approving proposed location of storage tanks, etc., of Champlain Oil Products Limited, near the C.N.R. tracks at Mont Joli, Que.
- 81712 July 2—Amending Order No. 80439, dated December 18, 1952.
- 81713 July 2—Permitting the removal of slow order at C.P.R. crossing of Holland Avenue, west of the station at Ottawa West, Ottawa, Ont.
- 81714 July 2—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under sections 3 and 9.
- 81715 July 2—Approving Plan submitted to the C.N.R. by New Superior Oils of Canada Limited and Carleton Oils Limited, showing the location of crude oil loading facilities at Munson, Alta.
- 81716 July 3—Amending Order No. 81592, dated June 17, 1953.
- 81717 July 3—Authorizing the Trans-Northern Pipe Line Company to construct its pipe line in part of Lake Ontario and partly in Burlington Canal, in the County of Wentworth, Ont.
- 81718 July 3—Authorizing the Department of Highways of the Province of Alberta to widen the highway where it crosses the C.P.R. between the Northeast quarter of Section 8, Twp. 53, Rge. 23, W4M, Alta.
- 81719 July 3—Amending Order No. 80677, dated January 21, 1953.
- 81720 July 3—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the tracks of the C.P.R. at Luseland, Sask.
- 81721 July 3—Approving restricted clearances of existing overhead crane runway located inside building and extending over siding serving Runnymede Iron and Steel Limited, in the Twp. of York, Ont.
- 81722 July 3—Authorizing the Bell Telephone Company to construct its lines of telephone upon and along the following highway in the Township of Chatham, in the Province of Ont.
- 81723 July 3—Approving proposed location of storage tanks, etc., of Champlain Oil Products Limited, near the C.N.R. tracks at Cornwall, Ont.
- 81724 July 3—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under sections 3 and 9.
- 81725 July 3—Authorizing the Saskatchewan Power Corporation to construct an electric power line across the Interprovincial Pipe Line Company in the Southwest quarter of Section 29, Twp. 13, Rge. 5, W2M, Sask.
- 81726 July 6—Approving the restricted clearances on the siding serving Stamped and Enamelled Ware Limited, in the Town of Hespeler, Ont., mileage 0-0 Hespeler Subd.
- 81727 July 6—Authorizing the City of Port Moody, B.C., to construct the highway across the C.P.R. in the City of Port Moody, B.C., at mileage 115-25 Cascade Subd.
- 81728 July 6—Authorizing the C.P.R. to construct a private siding, to serve Rosco Metal Products (B.C.) Limited, across Kent Street in the City of Vancouver, B.C.
- 81729 July 6—Permitting the removal of slow order at C.N.R. crossing of Main Street, being the first crossing east of the station at Gilbert Plains, Man.
- 81730 July 6—Permitting the removal of slow order at Northern Alberta Railways Company crossing near Donnelly, Alta.
- 81731 July 6—Permitting the removal of slow order at C.N.R. crossing of Florence Street near station at Emo, Ont.
- 81732 July 6—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Chandler, Que.
- 81733 July 6—Approving proposed location of storage tanks, etc., of Shell Oil Company of Canada Limited, near the C.N.R. tracks at Sherbrooke, Que.
- 81734 July 6—Authorizing the C.P.R. to install automatic block signals at certain mileages on its North Bay Subdivision.
- 81735 July 6—Amending Order No. 81174, dated April 13, 1953.
- 81736 July 7—Amending Order No. 81481, dated May 28, 1953.
- 81737 July 7—Authorizing the C.N.R. to make changes in the signals between Atherley and Orillia, Ont.
- 81738 July 7—Authorizing the C.P.R. to remove the station agent and appoint a caretaker agent at St. Cuthbert, Que.
- 81739 July 7—Permitting the removal of slow order at C.P.R. crossing of Cremazie Boulevard, Montreal, Que.
- 81740 July 7—Permitting the removal of slow order at crossing of Thompson Road and the London & Port Stanley Railway, in the City of London, Ont.
- 81741 July 7—Authorizing the Alberta Department of Highways to relocate and widen the highway where it crosses the C.N.R. in the Northwest quarter of Section 6, Twp. 53, Rge. 22, W5M, Alta.

- 81742 July 7—Approving the operation of trains of the Canadian Northern Railway over the private siding serving Saskatchewan Power Corporation, in the City of Saskatoon, Sask.
- 81743 July 7—Permitting the removal of slow order at crossing of the highway and the C.N.R. near the Village of Galahad, Alta.
- 81744 July 7—Restricting the speed of trains over the C.N.R. crossing of Queen Street in the Town of Truro, N.S.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, August 15, 1953

No. 10

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 81716

In the matter of Agreed Charge between certain railway companies, steamship companies and The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company Limited on lubricating oils and greases and petroleum products from stations and/or places referred to in paragraph C(1) of the said agreed charge to the stations and/or places referred to in paragraph C(2) thereof, which agreed charge was approved by Order No. 80206, dated November 17, 1952:

And in the matter of Order No. 81592, dated June 17, 1953:

File No. 40994-38

FRIDAY, the 3rd day of July, A.D. 1953.

HUGH WARDROPE, Asst. Chief Commissioner.

A. SYLVESTRE, Q.C., Deputy Chief Commissioner.

Upon reading the submissions filed—

It is ordered that Order No. 81592 dated June 17, 1953, be, and it is hereby, amended by striking out the words and figures "from its Toronto and Montreal plants to all points of destination shown in Canadian Freight Association Agreed Charges C.T.C. (A.C.) No. 49" in the recital and in the operative part of the said Order and substituting therefor the words and figures "from stations and/or places referred to in paragraph C(1) of the said agreed charge to all points of destination shown in Canadian Freight Association Agreed Charge Tariff C.T.C. (A.C.) No. 49".

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81771

In the matter of the application of the Canadian Freight Association, dated May 20, 1953, under the provisions of Part V of The Transport Act, 1938, for approval of an agreed charge:

File No. 40994-39

FRIDAY, the 10th day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge between the Canadian National Railway Company, Canadian Pacific Railway Company and The British American Oil Company, Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited and North Star Oil Limited on petroleum products from Fort William, Ontario, Port Arthur, Ontario and West Fort William, Ontario, to stations and/or places in the Province of Ontario, on file with the Board under file No. 40994-39, be, and it is hereby, approved; and the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 2nd day of July, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81776

In the matter of Agreed Charge between the Canadian National Railways, Canadian Pacific Railway Company, Ontario Northland Railways and certain shippers covering the transportation of petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway, approved by Order No. 81765, dated July 9, 1953:

File No. 40994-40

FRIDAY, the 10th day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas Cities Service Oil Company Limited has made application under subsection (6) of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the agreed charge approved by Order No. 81765, dated July 9, 1953, be, and it is hereby, fixed for the transport of petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway shipped by Cities Service Oil Company Limited, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said charges, fixed as aforesaid, are to come into operation.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81797

In the matter of the application of the Canadian Freight Association, dated May 7, 1953, for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 45:

File No. 40994-34

THURSDAY, the 16th day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge Tariff C.T.C. (A.C.) No. 45 be, and it is hereby, approved; and that the date from which the said Supplement No. 1 shall become operative is hereby fixed as May 11, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 787

In the matter of rules covering the preparation of accounts to apply to joint projects undertaken under Order of the Board;

And in the matter of General Order No. 754 dated May 7th, 1951:

File No. 11026-74

FRIDAY, the 3rd day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that General Order No. 754, dated May 7th, 1951, be, and it is hereby amended by striking out the figures "3½ per cent" where they appear under the headings "Transportation Accounts" and "Construction and Maintenance Accounts" in sub-paragraph (b) dealing with surcharges in the said Order and substituting therefor the figures "5 per cent".

HUGH WARDROPE,
Assistant Chief Commissioner.

ERRATUM

Re Vol. XLIII, No. 8, dated July 15, 1953.

Pages were numbered wrong. Should have been numbered 159 to 166 inclusive instead of 1 to 8. In the index to be printed following the last issue of the fiscal year, pages of July 15 pamphlet will be referred to as 1-8, 2-8, etc. as this issue bears No. 8 of Volume XLIII.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
JUNE, 1953

Railway Accidents	253	Killed 12	Injured 260
Highway Crossing Accidents.....	38	Killed 10	Injured 57
Total.....	291	Killed 22	Injured 317
		<i>Killed</i>	<i>Injured</i>
Passengers		—	63
Employees		1	192
Others		21	62
Total.....		22	317

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed Injured

NEW BRUNSWICK

- 1 3 Automobile ran into side of train. Licence: Mass. 891-156.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.B. 3423.

QUEBEC

- 1 Auto truck ran into side of train. Licence: Que. F-7705.
- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 366-839.
- 4 Automobile ran into side of track motor car. Licence: Que. T-14148.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. L-5621.
- 4 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 27054.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ill. 83516.

ONTARIO

- 1 — Child walked onto crossing in front of approaching train and was struck.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. S-1608.
- 1 Automobile ran into side of train. Licence: Ont. 637-R-5.
- 1 — Pedestrian walked onto crossing in front of approaching train and was struck.
- 3 Automobile ran into side of train. Licence: Ont. AL-352.
- 1 — Station Wagon drove onto crossing in front of approaching train and was struck.
Licence: Ont. 5564-X.
- 2 4 Automobile ran into side of train. Licence: Ont. GD-958.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 62496.
- 2 Auto truck ran into side of train. Licence: Ont. 42566-B.
- 1 Cyclist ran into side of train.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. K-2470.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. S-9986.

Killed Injured

MANITOBA

- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 1-M-195.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 2-M-958.
- 1 Auto truck ran into side of train. Licence: Man. T-12915.
- 1 Automobile ran into side of train. Licence: Man. 8-D-277.
- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 54-182.

SASKATCHEWAN

- 1 Automobile struck by track motor car. Licence: Sask. 17-802.
- 1 Auto truck ran into side of train. Licence: Sask. 68-249.
- 3 School Bus struck by track motor car. Licence not given.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. F58-121.

ALBERTA

- 1 Auto taxi drove onto crossing in front of approaching train and was struck.
Licence: Alta. L-2113.
- 1 Automobile struck by track motor car. Licence not given.
- 1 Automobile ran into side of train. Licence: Alta. 52-J-27.
- 1 Automobile ran into side of train. Licence: Alta. 34-C-73.
- 1 Auto truck with trailer drove onto crossing in front of approaching train and was struck. Licence: Alta. PS-11080.

BRITISH COLUMBIA

- 1 3 Automobile ran into box cars moving over crossing. Licence: B.C. 94-823.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: B.C. C-56531.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence not given.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. 72083.

Of the 38 accidents at highway crossings, 30 occurred at unprotected crossings, and 8 at protected crossings. Twenty-nine occurred after sunrise and nine after sunset.
OTTAWA, Ont., July 31, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81745 July 7—Approving the proposed location of storage tanks, etc., of the British American Oil Company Limited, near the C.P.R. tracks at Winnipeg, Man.
- 81746 July 7—Approving the proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Spiritwood, Sask.
- 81747 July 7—Approving the proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Kelvington, Sask.
- 81748 July 7—Approving the proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Maidstone, Sask.
- 81749 July 8—Authorizing the Rural Municipality of Walpole No. 92, to improve the sight lines at the crossing of the highway and the C.P.R. at mileage 47.5 Reston Subdivision, Sask.
- 81750 July 8—Relieving the C.N.R. from erecting fencing on their Bonnyville Subdivision, Alberta.
- 81751 July 8—Authorizing the Quebec Central Railway Company to close the crossings of its railway and the highway at mileages 38.06 Chaudiere Subdivision, and 38.27 Chaudiere Subdivision, in the Province of Quebec.
- 81752 July 8—Approving the operation of the C.N.R. trains over the private siding serving Canadian Admiral Corporation Limited, Montreal, Que.
- 81753 July 8—Relieving the C.N.R. from erecting fencing on the east side of their Huntsville Subdivision, Ont.
- 81754 July 8—Approving plan No. 770/460 submitted to the C.N.R. by Great Plains Development Company Limited.
- 81755 July 8—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Plumas, Man.
- 81756 July 8—Relieving the C.N.R. from erecting fencing on their Avonlea Subdivision, Sask.
- 81757 July 8—Approving the removal of slow order at the crossing of the highway and the Esquimalt and Nanaimo Railway near Wellington, B.C.
- 81758 July 9—Authorizing the Consumers' Co-Operative Refineries, Limited, to construct, at its own expense, an underpass for carrying pipe lines across the C.N.R. at mileage 91.15 Qu'Appelle Subdivision, Sask.
- 81759 July 9—Approving the removal of slow order at crossing of the C.N.R. and Main Street, being the first crossing east of the station at Grandview, Man.
- 81760 July 9—Approving the operation of the C.P.R. trains, engines and cars over the private sidings serving Link-Belt Limited, in the Township of Scarborough, County of York, Ontario.
- 81761 July 9—Authorizing the C.N.R. to reconstruct the timber bridge at mileage 13.2 Skeena Subdivision, B.C.
- 81762 July 9—Authorizing the C.P.R. to reconstruct bridge No. 0.69 on the branch line from Stockett Junction to Wellcox where it crosses Highway No. 1 near Nanaimo, B.C.
- 81763 July 9—Approving proposed location of storage tanks, etc., of Central Gas Utilities Limited, near the C.N.R. tracks at Melville, Sask.
- 81764 July 9—Amending Order No. 80952, dated March 5, 1953.
- 81765 July 9—Approving agreed charge between the C.N.R., C.P.R., Ontario Northland Railways and The British American Oil Company, Limited, Canadian Oil Companies, Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited and Shell Oil Company of Canada, Limited.
- 81766 July 10—Authorizing the C.P.R. to make changes to the signals at the crossing of its railway and the C.N.R., Loop Line Transfer, near Tillsonburg, Ont.
- 81767 July 10—Approving the removal of slow order at crossing of the C.P.R., being the first public crossing south of Westover, Que.
- 81768 July 10—Approving the removal of slow order at crossing of the C.P.R., in the Province of B.C., mileage 38.58 Shuswap Subdivision.
- 81769 July 10—Authorizing the Municipality of the Parish of St. Antoine des Laurentides, Que., to construct St. Andre Street across the C.P.R., in the County of Terrebonne, Que.
- 81770 July 10—Amending Order No. 81358, dated May 9, 1953.
- 81771 July 10—Approving agreed charge between the C.N.R., C.P.R. and The British American Oil Company, Limited, Canadian Oil Companies Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited and North Star Oil Limited.
- 81772 July 10—Authorizing the C.N.R. to construct an additional railway track across McKeand Street, in the Town of Ingersoll, Ont.
- 81773 July 10—Authorizing the C.N.R. to extend their eastward passing track at Gananoque Junction, mileage 153.21 Gananoque Subdivision, across the Township road allowance in Lot 19, Con. 2, in the Township of Leeds, County of Leeds, Ont.

- 81774 July 10—Authorizing the C.N.R. to reconstruct the timber trestle bridge, Sask., at mileage 8.4 Rhein Subdivision.
- 81775 July 10—Authorizing the C.N.R. to close, between the limits of their railway, the public crossing on Lot 78, Con. A, Township of Caron, in the County of Lake St. John, Que.
- 81776 July 10—Approving Agreed Charge between the C.N.R., C.P.R., Ontario Northland Railways and certain shippers covering the transportation of petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway.
- 81777 July 10—Approving plan, profile and book of reference, showing the location of the Trans Mountain Oil Pipe Line Company's pipe line within the Municipality of Burnaby, B.C.
- 81778 July 10—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Vilna, Alta.
- 81779 July 10—Approving the removal of slow order at crossing of the C.N.R. and Highway No. 1, in the Village of Portage, Province of Prince Edward Island.
- 81780 July 10—Relieving the C.N.R. from maintaining fencing in the Rural Municipalities of Swan River No. 163, Clayton No. 333 and Preeceville No. 334, in the Provinces of Manitoba and Saskatchewan.
- 81781 July 14—Rescinding Order No. 56190, dated July 16, 1938.
- 81782 July 14—Granting leave to the Edmonton Pipe Line Company Limited, to construct a 3-inch crude oil pipe line across the Interprovincial Pipe Line Company in Legal Subdivision 15, Section 30, Township 49, Range 21, W4M, Alta.
- 81783 July 14—Authorizing the C.N.R. to install two flashing light signals and one bell at the crossing of their railway and Highway No. 74 north of New Sarum, Ontario.
- 81784 July 14—Approving the proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Manitou, Man.
- 81785 July 14—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.
- 81786 July 15—Approving the removal of slow order at the crossing of the C.N.R. and Provincial Highway No. 9, being the third public crossing north of the station at Harriston, Ontario.
- 81787 July 16—Granting to the Imperial Oil Limited leave to construct a private road across the Interprovincial Pipe Line Company in Section 36, Township 49, Range 22, W4M, Alta.
- 81788 July 16—Relieving the C.P.R. from erecting cattle guards at certain crossings of its railway and the highway, in the Province of Sask.
- 81789 July 16—In the matter of changes in the rate grouping of certain exchanges of The Bell Telephone Company of Canada pursuant to the Board's Circular No. 267.
- 81790 July 16—Approving the removal of slow order at the C.N.R. crossing just north of Trout Creek, Ont., mileage 88 Huntsville Subdivision.
- 81791 July 16—Authorizing the C.P.R. to install and maintain two flashing light signals and one bell, with two additional light units on the signal to be located in the northwest angle for the protection of traffic on Highway No. 17 when it turns on Martindale Road to cross the railway; with special circuits to minimize the unnecessary operation of the protection for trains switching or making meets at this point, at the crossing of Martindale Road, Ontario, at mileage 2 Webbwood Subdivision.
- 81792 July 16—Authorizing the Chesapeake & Ohio Railway Company to install protection at the crossing of its railway and Sunset Drive, in the City of St. Thomas, Ont.
- 81793 July 16—Approving the removal of slow order at C.N.R. crossing, being the first crossing north of the station at Alma, Ont., mileage 52.97 Fergus Subdivision.
- 81794 July 16—Approving the removal of slow order at the crossing of Wellington Street and the Algoma Central & Hudson Bay Railway north of Steelton station, Sault Ste. Marie, Ontario.
- 81795 July 16—Approving revised plan No. WLX-6-67-1.
- 81796 July 16—Approving restricted clearances over tracks serving A. W. Wasson Limited near Pennlyn, Province of N.B., mileage 52.58 Minto Subdivision, as shown on Plan No. NB-W01-014, dated June 10, 1953.
- 81797 July 16—Approving Supplement to Agreed Charge Tariff C.T.C. (A.C.) No. 45.
- 81798 July 16—Authorizing the C.P.R. to install protection at the crossing of its railway and Highway No. 8 between Quyon and Mohr stations, in the Province of Quebec.
- 81799 July 17—Authorizing the City Gas Company of the City of London, Ontario to construct a gas pipe line along and across the London and Port Stanley Railway's industrial spur serving the Vanadium Steel Company plant at London, Ont.

- 81800 July 17—Approving the sanctioning of an agreement between the C.P.R., the C.N.R. and The Canadian Northern Railway Company in regard to the use of certain tracks on the south side of Burrard Inlet, the Second Narrows Bridge and the north side of Burrard Inlet, all in the Province of B.C.
- 81801 July 17—Sanctioning an agreement between C.P.R., C.N.R. and the Canadian Northern Railway Company in regard to the use of certain tracks on the south side of Burrard Inlet, the Second Narrows Bridge and the north side of Burrard Inlet, B.C.
- 81802 July 17—Amending Order No. 79435, dated July 22, 1952.
- 81803 July 17—Restricting the speed of trains over the C.P.R. crossing at 107th Street, Edmonton, Alta.
- 81804 July 17—Relieving the C.P.R. from erecting cattle guards at highway crossings on its Amulet Subdivision, Sask.
- 81805 July 17—Authorizing the Municipal District of Strathecona No. 83, Alta., to widen its highway where it crosses the C.N.R. between Sections 14 and 23, Township 52, Range 24, W4M, Alta.
- 81806 July 17—Authorizing the Town of Deer Lake, Nfld. to construct and maintain, at its own expense, Canal Road across the C.N.R. in the Town of Deer Lake, Nfld., mileage 373.36 Bishops Falls Subdivision.
- 81807 July 17—Granting to the Northwestern Utilities, Limited, leave to construct and maintain a 12 $\frac{1}{4}$ -inch high pressure natural gas pipe line across the Inter-provincial Pipe Line Company in the North half of the Southeast quarter of Section 30, Township 55, Range 22, W4M, Alta.
- 81808 July 17—Approving revised Plan No. P-21-7-214-1 in lieu of Plan No. P-21-7-214-1, dated March 10, 1953.
- 81809 July 17—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.P.R. tracks at West Bend, Sask.
- 81810 July 17—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Watson, Sask.
- 81811 July 17—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Benito, Man.
- 81812 July 20—Amending Order No. 80518, dated December 30, 1952.
- 81813 July 20—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Denholm, Sask.
- 81814 July 20—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Allan, Sask.
- 81815 July 20—Authorizing the C.N.R. to use and operate the bridges at mileages 84.0, 112.7, 123.4 and 131.1 Unity Subdivision, Alta.
- 81816 July 20—Authorizing the C.N.R. to use and operate the bridge at mileage 0.4 Calgary Southerly Subdivision, Alta.
- 81817 July 20—Amending Order No. 80517, dated December 30, 1952.
- 81818 July 20—Amending Order No. 80516, dated December 30, 1952.
- 81819 July 20—Authorizing the C.N.R. to operate over sidings serving Marmora Mine of the Marmoraton Mining Co. Ltd., Ont., at mileage 29.10 Maynooth Subdivision.
- 81820 July 20—Authorizing the C.N.R. to operate over sidings serving Lever Brothers Limited, Toronto, Ontario.
- 81821 July 20—Authorizing the C.N.R. to construct a temporary track diversion at mileage 10.33 Cornwall Subdivision, Que.
- 81822 July 20—Approving the automatic block signals between Suffield and Brooks, Alta., at mileages 26 to 70 Brooks Subdivision.
- 81823 July 20—Approving the location of the station proposed to be erected by the C.P.R. at mileage 10.4 Lac du Bonnet Subdivision North, Man.
- 81824 July 20—Approving removal of slow order at C.P.R. crossing, being the first crossing east of the station at Fannystelle, Man.
- 81825 July 20—Approving removal of slow order at C.N.R. crossing, being the first public crossing east of St. François du Lac Station, Que.
- 81826 July 20—Restricting the speed of trains over the C.P.R. crossing of Aylmer Street, Peterboro, Ont.
- 81827 July 20—Approving proposed location of storage tank, etc., of North Star Oil Limited, near the C.P.R. tracks at Waskada, Man.
- 81828 July 20—Approving revised Plan No. P-21-7-202-1 to July 7, 1953, in lieu of Plan No. P-21-7-202-1, dated May 21, 1951.
- 81829 July 20—Authorizing the C.P.R. to make signal changes between McAdam and Vanceboro, N.B., Mattawamkeag Subdivision.
- 81830 July 20—Approving under the Maritime Freight Rates Act tolls published in supplement to Tariff filed by the Dominion Atlantic Railway Company under section 9.
- 81831 July 21—Restricting the speed of trains over the crossing of Hespeler Road (Highway No. 24) and the Grand River Railway, Galt, Ont.

- 81832 July 21—Approving the removal of slow order at C.N.R. crossing, being the second crossing east of the station at Laurier, Man., mileage 149.95 Gladstone Subdivision.
- 81833 July 21—Authorizing the C.P.R. to install and maintain two flashing light signals and one bell at the crossing of Highway No. 8, Que., at mileage 66.60 Waltham Subdivision.
- 81834 July 21—Approving the removal of slow order at C.N.R. crossing of Highway No. 9 at mileage 49.41 Yorkton Subdivision, Sask.
- 81835 July 21—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.
- 81836 July 22—Authorizing The Toronto, Hamilton and Buffalo Railway Company to reconstruct, at its own expense, the bridge over Aberdeen Avenue, Hamilton, Ont.
- 81837 July 22—Relieving the Northern Alberta Railways Company from erecting cattle guards at certain highway crossings on its Smoky Subdivision, Alta.
- 81838 July 22—Relieving the Northern Alberta Railways Company from erecting cattle guards at certain highway crossings on its Edmonton Subdivision, Alta.
- 81839 July 22—Relieving the Northern Alberta Railways Company from erecting cattle guards at the highway crossing at mileage 25.8 Barrhead Subdivision, Alta.
- 81840 July 22—Relieving the Northern Alberta Railways Company from erecting cattle guards at certain highway crossings on its Lac la Biche Subdivision, Alta.
- 81841 July 22—Relieving the Northern Alberta Railways Company from erecting cattle guards at certain highway crossings on its Lac la Biche Subdivision, Alta.
- 81842 July 22—Rescinding Order No. 77688, dated November 7, 1951, and Order No. 80245, dated November 21, 1952.
- 81843 July 22—Relieving the Northern Alberta Railways Company from erecting cattle guards at certain highway crossings on its Peace River Subdivision, Alta.
- 81844 July 22—Amending Order No. 81138, dated April 7, 1953.
- 81845 July 22—Amending Order No. 79048, dated July 15, 1952.
- 81846 July 22—In the matter of the apportionment of the cost of protection at the crossing of Middle Road (Angle Road Crossing) and the C.N.R. in the Township of Trafalgar, County of Halton, Ontario.
- 81847 July 22—Authorizing the C.P.R. to operate under the overhead viaduct carrying the extension of Boulevard Charest over its tracks in the City of Quebec.
- 81848 July 22—Relieving the C.N.R. from erecting fencing at points between mileage 0.0 and mileage 124.4 Blackfoot Subdivision, Alta.
- 81849 July 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Fox Valley, Sask.
- 81850 July 22—Approving proposed location of storage tanks, etc., of Consumers' Co-Operative Refineries, Limited, near the C.N.R. tracks at Regina, Sask.
- 81851 July 22—Approving proposed location of storage tank, etc., of McKinnon Industries, Limited, near the C.N.R. tracks at Merriton, Ontario.
- 81852 July 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Reston, Man.
- 81853 July 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Preeceville, Sask.
- 81854 July 22—Restricting the speed of trains over the C.N.R. crossing at Rink Street in the City of Peterboro, Ont.
- 81855 July 22—Restricting the speed of trains over the crossing of Alice Street and the Oshawa Railway Company, Oshawa, Ontario.
- 81856 July 23—Approving proposed extension to loading racks of Royalite Oil Company, Limited, near the C.N.R. tracks at Coleville, Sask.
- 81857 July 23—Approving the removal of slow order at C.P.R. crossing of Springfield Road at mileage 62 Lac du Bonnet Subdivision, Man.
- 81858 July 23—Approving the removal of slow order at C.N.R. crossing at mileage 246.71 Oshawa Subdivision, Ontario.
- 81859 July 23—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Clyde, Alta.
- 81860 July 23—Relieving the Northern Alberta Railways Company from erecting cattle guards at certain highway crossings on its Grande Prairie Subdivision, Alta.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

September 1, 1953

No. 11

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 81936

In the matter of the application of the Canadian Freight Association, dated July 30, 1953, for continuance of approval of Agreed Charge Tariff C.T.C. (AC) No. 49 with modifications:

File No. 40994-38

FRIDAY, the 7th day of August, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas Agreed Charge Tariff C.T.C. (AC) 49 applying on Lubricating Oils and Greases, carloads, in tank cars; and on Petroleum Products, carloads, in packages; from Clarkson's, Sarnia and Toronto, Ontario; and from Montreal, Quebec; to points in Western Canada, was approved by Order No. 80206, dated the 17th November, 1952, without restriction of time, for carriage of the traffic of The British American Oil Company Limited, Canadian Oil Companies Limited, Imperial Oil Limited, and McColl, Frontenac Oil Company Limited by the carriers named therein;

And Whereas the Board has subsequently fixed charges, the same as the agreed charge, for Socony-Vacuum Oil Company of Canada Limited (formerly White Star Refining Company Limited), C. C. Wakefield & Company Limited, International Waxes Limited, Tide Water Associated Oil Company (Canada) Limited, and Panther Oil & Grease Mfg. Company Limited.

And Whereas the parties to the Agreed Charge and those for whom charges were fixed, have submitted supplement No. 5 to the aforesaid Agreed Charge tariff modifying the scope thereof and have signified their agreement to such modifications by affixing their signatures thereto;

It is ordered that the Board's approval of the Agreed Charge published in tariff C.T.C. (AC) No. 49 be, and it is hereby, continued with the modifications stated in supplement No. 5 thereto as on file with the Board:

It is further ordered that charges fixed as aforesaid shall be subject to the same modifications as set out in the said supplement No. 5.

A. SYLVESTRE,

Deputy Chief Commissioner.

ORDER No. 81955

In the matter of the application of the Canadian Freight Association, dated June 29, 1953, under the provisions of Part V of The Transport Act, 1938, for approval of an agreed charge:

File No. 40994-46

TUESDAY, the 11th day of August, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge between Canadian National Railway Company, Canadian Pacific Railway Company and Riverlake Oils Limited on petroleum products (except crude oil) from Fort William, Ontario, to stations and/or places in the Province of Ontario, on file with the Board under file No. 40994-46, be, and it is hereby approved; and the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 2nd day of July, 1953.

A. SYLVESTRE,

Deputy Chief Commissioner.

ORDER No. 81969

In the matter of the application of the Governor and Company of Adventures of England Trading into Hudson's Bay (commonly known as "Hudson's Bay Company") for a licence under section 10 of The Transport Act, 1938:

And in the matter of Order No. 81174, dated April 13, 1953:

File No. 42076-34

WEDNESDAY, the 12th day of August, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 81174, dated April 13, 1953, be, and it is hereby, amended by striking out from the list of vessels named in the said Order the following:

"H.B.C. Barge No. 208 175553 202"

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 81970

In the matter of the application of McInnes Products Corporation Limited, Edmonton, Alberta, for a licence under section 10 of the Transport Act, 1938:

And in the matter of Order No. 81038, dated March 18, 1953:

File No. 42076-32

WEDNESDAY, the 12th day of August, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 81038, dated March 18, 1953, be, and it is hereby, amended by adding to the operative part of the said Order the following:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>H.B.C. Barge No. 208.....</i>	<i>175553</i>	<i>202</i>

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 81893

In the matter of the application of Canadian Import Company, of Montreal, Province of Quebec, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 14 as approved by the Board:

File No. 40994-16

WEDNESDAY, the 29th day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Whereas the Canadian Import Company has made application under sub-section 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 14, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 14 for the transport, by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said tariff, shipped by Canadian Import Company from stations and/or places named in paragraph C(1), to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 786

In the matter of the application of The Railway Association of Canada for approval of Supplement No. 1 to Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service:

File No. 1717-B

FRIDAY, the 17th day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the said Supplement No. 1 to Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, on file with the Board under file No. 1717-B, be, and it is hereby, authorized for the observance of the railway companies subject to the jurisdiction of the Board which accept explosives and other dangerous articles for carriage.

2. That General Orders No. 719, dated November 20, 1948, and No. 780, dated December 11, 1952, be, and they are hereby, rescinded.

3. That this General Order No. 786 shall come into force on the 15th day of September, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 788

In the matter of General Order No. 41 which approved two forms of bill of lading for use in Canada:

File No. 3678-82

FRIDAY, the 24th day of July, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is hereby ordered that General Order No. 41 be, and it is hereby, amended by deleting the last two paragraphs thereof beginning with the words, "*And it is further ordered* that the size of the said bills of lading" and ending with the words, "subject to the legislative authority of the Parliament of Canada" and substituting therefor the following paragraph:

"And it is further ordered that the forms hereby approved shall be the only forms of bills of lading to be used by all railway companies subject to the legislative authority of the Parliament of Canada except such forms as may hereafter be prescribed or approved by order of the Board".

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 81861 July 24—Restricting the speed of trains at C.N.R. crossing of 24th Street East, Saskatoon, Saskatchewan.
- 81862 July 24—Restricting the speed of trains at C.P.R. crossing near station at Vernon, B.C.
- 81863 July 24—Restricting the speed of trains at C.N.R. crossing of 96th Street near station on the East Loop in the City of Edmonton, Alberta.
- 81864 July 24—Authorizing the C.N.R. to construct spur to serve the Canadian Admiral Sales, Limited, Township of York, Ontario.
- 81865 July 24—Declaring the Village of Forest Hill, to be an urban municipality within the meaning of subsection 2 of section 308 of the Railway Act.
- 81866 July 27—Authorizing the C.N.R. to construct a bridge over the Russell River, Mileage 106.4 Lynn Lake Line, Manitoba.
- 81867 July 27—Relieving the C.N.R. from erecting fencing on the south side of their tracks on Alliance Subdivision, Alberta.
- 81868 July 27—Authorizing the Grand Trunk Pacific Railway Company to construct an industrial spur to serve McLennen, McFeeley & Prior Limited, across Queen Street at Prince George, B.C.
- 81869 July 27—Authorizing the Grand Trunk Pacific Railway to construct an industrial spur to serve Slade & Stewart and Marshall-Well's Company Limited, across Queen Street in the City of Prince George, B.C.
- 81870 July 27—Authorizing the Grand Trunk Pacific Railway Company to construct an industrial spur to serve the W. H. Malkin Company Limited, across Ontario Street, City of Prince George, B.C.
- 81871 July 27—Relieving the C.P.R. from erecting fencing at certain mileages on its Webbwood Subdivision.
- 81872 July 27—Relieving the C.P.R. from erecting right of way fencing at certain mileages on its Thessalon Subdivision, Ontario.
- 81873 July 27—Relieving the C.P.R. from erecting fencing at certain mileages on the east side of its Parry Sound Subdivision, Ontario.
- 81874 July 27—Relieving the C.P.R. from erecting right of way fencing at certain mileages on the north side of its Cartier Subdivision, Ontario.
- 81875 July 27—Authorizing the C.N.R. to operate their trains through the interlocking plant at Pacific Junction, near Winnipeg, Manitoba.
- 81876 July 27—Approving Appendix to Traffic Agreement between the Bell Telephone Company of Canada and the Iron Bridge Telephone Company Limited.
- 81877 July 27—Approving Appendix to Traffic Agreement between the Bell Telephone Company of Canada and La Tuque Telephone Company.
- 81878 July 27—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and West Lake Telephone Company Limited.
- 81879 July 27—Approving Supplement to Service Station Contract between the Bell Telephone Company and the Browning Island Telephone Line.
- 81880 July 28—Approving location of C.P.R. station to be erected at Ivry, Quebec.
- 81881 July 28—Approving forms of bills of lading of the C.N.R. for use in respect to traffic in the Province of Newfoundland.
- 81882 July 28—Approving Traffic Agreements between the Bell Telephone Company of Canada, and the La Corporation de Téléphone de Quebec.
- 81883 July 28—Approving the proposed location of storage tank etc. of Hugh Gas Limited for liquefied petroleum gases near C.P.R. track at Swift Current, Saskatchewan.
- 81884 July 28—Approving Appendix to traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Téléphone Rurale de Ste. Helene de Bagot.
- 81885 July 28—Approving proposed location of storage tank etc. of A. V. Roe Company (Canada) Limited for liquefied petroleum gas near the C.N.R. tracks at Malton, Ontario.
- 81886 July 28—Approving proposed location of storage tanks of Imperial Oil Limited near the C.N.R. at Trois Pistoles, Quebec.
- 81887 July 28—Authorizing the Bell Telephone Company of Canada to construct its lines of telephone upon, along, across and over certain highways in the Township of Harwich, County of Kent, Ontario.
- 81888 July 28—Approving Appendix to Traffic Agreement between the Bell Telephone Company of Canada and Téléphone D'Harricana et Gatineau Limitée.
- 81889 July 27—Authorizing the Westcoast Transmission Company Limited to assign and convey to Peace River Transmission Company Limited company pipe line constructed by the applicant company under Board's Orders Nos. 74897, 75749, 75750 and 75755.

- 81890 July 29—Approving signal changes to the interlocker at crossing of the railways of C.N.R. at Wakaw, Saskatchewan, at mileages 55.8 Meskanaw Subdivision and mileage 65.6 Cudworth Subdivision, Saskatchewan.
- 81891 July 29—Permitting the removal of slow Order at C.N.R. crossing of third street, east of Pottersburg, Ontario.
- 81892 July 29—Approving proposed location of the storage tanks etc. of North Star Oil Limited, near C.N.R. at St. Walburg, Saskatchewan.
- 81893 July 29—In the matter of application of Canadian Import Company of Montreal, Quebec, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 14 as approved by the Board.
- 81894 July 29—Permitting the removal of slow Order at C.N.R. crossing South of the station at Bramley, Ontario.
- 81895 July 29—Permitted the removal of slow Order at C.N.R. crossing of the Old Belleville Road near station at Napanee, Ontario.
- 81896 July 29—Approving proposed location of storage tank etc. of Shell Oil Company of Canada Limited near C.P.R. at Dorval, Quebec.
- 81897 July 29—Approving Agreement between the Bell Telephone Company and Her Majesty the Queen, represented by the Minister of National Defence of Canada, which provides for the establishment of telephone communication between the Lac St. Denis station of the R.C.A.F. and the system of the Applicant company.
- 81898 July 30—Approving Service Station Contract between the Bell Telephone Company and the Department des Terres et Forets.
- 81899 July 30—Amending Order No. 81789, dated July 16, 1953 in the matter of rate grouping of certain exchanges of the Bell Telephone Company of Canada.
- 81900 July 30—Approving of Supplement to Service Station Contract between the Bell Telephone Company and the Lyons Telephone System.
- 81901 July 30—Permitting the removal of slow Order at C.N.R. crossing west of Finchley, Ontario.
- 81902 July 30—Approving certain Tariffs filed by the British Columbia Telephone Company.
- 81903 July 30—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 81904 July 30—Approving location of pipe line etc. of the Imperial Oil Limited near tracks of the C.N.R. at Saint John, N.B.
- 81905 July 30—Authorizing the Ontario Department of Highways to construct a dual highway across London and Port Stanley Railway by means of an overhead bridge in the County of Middlesex, Ontario.
- 81906 July 30—Amending Order No. 80514, dated December 30, 1952, whereby the C.N.R. was authorized to take possession of certain tracks and facilities of National Harbours Board and others.
- 81907 July 31—Permitting the removal of slow Order at the crossing of Niagara, St. Catharines & Toronto Railway and Port Robinson Road, County of Front Hill, Ontario.
- 81908 July 31—Authorizing the C.P.R. to construct an extension to its yard lead track to serve Centre Street and certain other streets in the City of Winnipeg, Manitoba.
- 81909 Aug. 4—Approving location and details of station proposed to be erected by the C.N.R. at Atholville, N.B.
- 81910 Aug. 4—Authorizing the Trans Northern Pipe Line Company to construct a petroleum products pipe line along, upon and under the right of way of The Canadian Northern Ontario Railway Company and the Canadian National Railways in the Township of North York, Ontario.
- 81911 Aug. 4—Relieving the City Gas Company of the City of London, Ontario from the necessity of installing an outside casing pipe where the pipe line crosses the industrial spur tracks serving the Vanadium Steel Company, Ontario.
- 81912 Aug. 4—Authorizing the C.N.R. to construct a public crossing over their right of way in the Village of Holden, Alberta.
- 81913 Aug. 4—Approving proposed location of storage tank of Quebec Propane Gas Company Limited, near C.P.R. tracks at Landers, Quebec.
- 81914 Aug. 4—Authorizing the C.P.R. to operate its trains under the overhead bridge across its right of way opposite the dam of the Tobique Narrows, County of Victoria, N.B.
- 81915 Aug. 4—Permitting the removal of slow Order at C.N.R. crossing in the Village of Maria, Quebec.
- 81916 Aug. 4—Authorizing the New York Central Railroad Company to remove the caretaker at LaSalette Station, Ontario.
- 81917 Aug. 4—In the matter of the application of the Department of National Defence for an Order of installing automatic protection at the crossings of the highway and the C.N.R. at mileages 10.33 and 10.55 Dartmouth Subdivision, N.S.

- 81918 Aug. 5—Approving Supplement agreement between the Bell Telephone Company of Canada and the New Brunswick Telephone Company Limited.
- 81919 Aug. 5—In the matter of application of the C.N.R. and C.P.R. for authority to operate their trains over part of the Toronto Harbour Commissioners' main lead track as relocated across the circulating channel south of the Ship Canal Turning Basin, Toronto, Ontario.
- 81920 Aug. 5—Approving proposed location of pipe line etc. of Imperial Oil Limited, near C.P.R. tracks at Orkney, Saskatchewan.
- 81921 Aug. 5—Approving under the Maritime Freight Rates Act tolls published in certain Tariffs filed by the C.N.R. under Section 3.
- 81922 Aug. 5—Permitting the removal of slow Order at C.N.R. crossing about two miles east of Middleport, Ontario.
- 81923 Aug. 5—Permitting the removal of slow Order east of the station at Grand Bay, N.B.
- 81924 Aug. 5—Approving plan showing automatic protection as installed by the C.P.R. at Westminster Avenue, Montreal Terminals, Quebec.
- 81925 Aug. 5—Authorizing the New York Central Railroad Company to install protection at the crossing of its railway and Highway No. 3, near Shedd, Ontario.
- 81926 Aug. 5—Approving proposed relocation of pipe lines etc. of Dominion Engineers' Supply Company Limited near tracks of the C.N.R. at Collingwood, Ontario.
- 81927 Aug. 5—Requiring the C.P.R. to install protection at crossing of its railway and the Banff-Windermere Highway near Castle Mountain, Alberta.
- 81928 Aug. 6—Permitting the removal of slow Order at C.N.R. crossing, at Duro, Saskatchewan.
- 81929 Aug. 6—Authorizing the County of LaSalle to construct Stinson Avenue across the C.P.R. in the Town of LaSalle, Quebec.
- 81930 Aug. 6—Extending the time within which the C.P.R. was required to install protection at crossing of its railway and Selkirk Avenue, Winnipeg, Manitoba.
- 81931 Aug. 6—Authorizing the C.N.R. to make changes in the interlocker at the crossing of their railway and the railway of the C.P.R. at L'Epiphanie, Quebec.
- 81932 Aug. 6—Authorizing the C.N.R. to make changes in the crossing protection at the crossing of their railway and Middle Road (Queen Elizabeth) at Burlington, Ontario.
- 81933 Aug. 6—Authorizing the Imperial Oil Limited to construct a private road across the right of way of the Interprovincial Pipe Line Company in the Northeast quarter, Section 36, Township 49, Range 22, W4M, Alberta.
- 81934 Aug. 6—Authorizing the C.P.R. to construct an industrial lead track from a point on its right of way at grade across 33rd, 34th and 36th Streets etc. Saskatoon, Saskatchewan.
- 81935 Aug. 7—Approving proposed location of storage tank, etc., of Shell Oil Company of Canada Limited, near the C.N.R. tracks at Sillery, Quebec.
- 81936 Aug. 7—In the matter of the application of the Canadian Freight Association, dated July 30, 1953, for continuance of approval of Agreed Charge Tariff C.T.C. (AC) No. 49 with modifications.
- 81937 Aug. 7—Permitting the removal of slow Order at the British Columbia Electric Railway Company, Limited, crossing of Willingdon Avenue at Burnaby, B.C.
- 81938 Aug. 7—Amending Order No. 79042, dated May 26th, 1952, with reference to approval of plan submitted to C.N.R. by the California Standard Company, showing the location of crude oil loading facilities at Mirror, Alberta.
- 81939 Aug. 7—Amending Order No. 78180, dated January 28th, 1952.
- 81940 Aug. 7—In the matter of the application of the Town of Jonquiere, Quebec, for an Order authorizing the construction of a subway under the tracks of the C.N.R. to connect St. Hubert Street and Moisan Street, in the Town of Jonquiere.
- 81941 Aug. 7—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Madison, Saskatchewan.
- 81942 Aug. 7—Restricting the speed of trains at C.N.R. crossing at Brown Street near station at West Fort William, Ontario.
- 81943 Aug. 7—Approving proposed location of storage tank, etc., of North Star Oil Limited, near the C.N.R. tracks at Briercrest, Saskatchewan.
- 81944 Aug. 7—Restricting the speed of trains at C.N.R. crossing of Kingsway and 118th Avenues, Edmonton, Alberta.
- 81945 Aug. 10—Restricting the speed of trains at C.P.R. crossing known as Giles crossing, at mileage 18.52 Shore Line Subdivision.
- 81946 Aug. 10—In the matter of the application of the Canadian Chemical Company Limited, for leave to relocate its power and telephone duct which was authorized to be constructed pursuant to Order No. 78737, dated April 9, 1952, under the company pipe line of the Interprovincial Pipe Line Company in the S.E. quarter-17-53-23-W4M, Alberta.

- 81947 Aug. 11—Relieving the C.N.R. from erecting right-of-way fencing at certain mileages on their Miniota Subdivision, Manitoba.
- 81948 Aug. 11—Approving plan showing changes in the signal protection at C.N.R. crossing of Alma Street, Hebertville, Quebec.
- 81949 Aug. 11—Authorizing the City of Red Deer, Alberta, to construct a pedestrian public crossing over the C.P.R. opposite 58th Street in the City of Red Deer, Alberta.
- 81950 Aug. 10—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under sections 3 and 9.
- 81951 Aug. 11—Authorizing the C.N.R. to make changes in the interlocking plant at the crossing of their railway and the railway of the C.P.R. at Coniston, Ontario.
- 81952 Aug. 11—Permitting the removal of slow Order at C.P.R. crossing of 51st Avenue, Edmonton, Alberta.
- 81953 Aug. 11—In the matter of the application of the Texaco Exploration Company, for leave to construct a 16-inch crude oil pipe line under and across the company pipe line and right-of-way of the Interprovincial Pipe Line Company in the N.W. quarter-32-52-23 W4M, Alberta.
- 81954 Aug. 11—Permitting the removal of slow Order at C.N.R. crossing near station at Norquay, Saskatchewan.
- 81955 Aug. 11—In the matter of the application of the Canadian Freight Association, dated June 29, 1953, under the provisions of Part V of The Transport Act, 1938, for approval of an agreed charge.
- 81956 Aug. 11—Authorizing the C.P.R. to install signals from mileage 21 to mileage 140 Maple Creek Subdivision, Alberta.
- 81957 Aug. 11—Approving the operation of C.P.R. trains over the private industrial siding serving the assembly plant of the Ford Motor Company of Canada, Limited, near Oakville, Ontario.
- 81958 Aug. 11—Permitting the removal of slow Order at the British Columbia Electric Railway Company, Limited, and Gilmour Avenue crossing at Burnaby, B.C.
- 81959 Aug. 11—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.P.R. tracks at Ponteix, Saskatchewan.
- 81960 Aug. 11—Amending Order No. 81841, dated July 22, in the matter of the application of the R.M. of Smoky River No. 130, Alberta, exempting the Northern Alberta Railways Company from erecting cattle guards at certain highway crossings on its Slave Lake Subdivision, Alberta.
- 81961 Aug. 12—Directing the C.N.R. to move their station at Ste. Therese de Gaspe from its present location to a location at about mileage 57.48 of their Chandler Subdivision, Quebec.
- 81962 Aug. 12—Authorizing the C.N.R. to construct a railway track upon and across Industrial Avenue, Ottawa, Ontario.
- 81963 Aug. 12—In the matter of the application of the C.P.R. for an order amending Order No. 81796, dated July 16, 1953, which approved restricted clearances over tracks serving A. W. Wasson Limited, near Pennlyn, N.B.
- 81964 Aug. 12—Approving proposed location of storage tanks, etc., of The McKinnon Industries Limited, near the C.N.R. tracks at St. Catharines, Ontario.
- 81965 Aug. 12—Authorizing the Sun Oil Company, Limited, to lay certain pipe lines under the tracks of The Toronto Harbour Commissioners near the intersection of Basin and Bouchette Streets, Toronto, Ontario.
- 81966 Aug. 12—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 81967 Aug. 12—Authorizing the C.P.R. to reconstruct the highway bridge over the C.P.R. in the Town of Mattawa, Ontario.
- 81968 Aug. 12—In the matter of rates on lumber from B.C. and Alberta to destinations in Eastern Canada, designated "Competitive" by the railways and subjected to suspension Orders No. 81490 and 81637.
- 81969 Aug. 12—In the matter of the application of the Hudson's Bay Company for a licence under section 10 of The Transport Act, 1938, and in the matter of Order No. 81174, dated April 13th, 1953.
- 81970 Aug. 12—In the matter of the application of McInnes Products Corporation Limited, Edmonton, Alberta, for licence under section 10 of the Transport Act, 1938, and in the matter of Order No. 81038, dated March 18, 1953.
- 81971 Aug. 13—Authorizing the Ontario Department of Highways to construct Highway No. 11 across the C.N.R. by means of an overhead bridge, mileage 89.12 Bala Subdivision, County of Simcoe, Ontario.
- 81972 Aug. 13—Authorizing the Township of North York, Ontario, to extend and maintain Caledonia Road across the C.N.R. spur serving the Acme Screw & Gear Company, etc.
- 81973 Aug. 13—In the matter of the application of the C.N.R. for approval of plan showing proposed revisions to the interlocking plant at Carberry, Manitoba.

- 81974 Aug. 13—Extending the time within which protection is to be installed by the C.P.R. at crossing of Montee des Sources Road, Pointe Claire, Quebec.
- 81975 Aug. 14—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under section 9.
- 81976 Aug. 14—Authorizing the Northern Alberta Railways Company to reconstruct its bridge at mileage 181.2 Slave Lake Subdivision, Alberta.
- 81977 Aug. 14—Extending the time within which the C.N.R. branch line of railway is to be completed in the City of St. Boniface, Manitoba.
- 81978 Aug. 14—Rescinding Orders Nos. 20688, 77255, 79175 and 79614 in the matter of the interlocking plant at crossing of the Esquimalt & Nanaimo Railway and the railway of Canadian Collieries (Dunsmuir) Limited, near Royston, B.C.
- 81979 Aug. 14—Authorizing the C.P.R. to construct a branch line of railway in the Parish of Trois Rivières, County of St. Maurice, Quebec.
- 81980 Aug. 14—Authorizing the C.N.R. to cross with an extension of their passing track the road allowance between Concessions 8 and 9, Township of Armour, at Burks Falls, Ontario.
- 81981 Aug. 14—Authorizing the C.N.R. to reconstruct their bridge over the Madawaska River, at mileage 78.6 Temiscouata Subdivision, N.B.
- 81982 Aug. 14—In the matter of the application of the City of Toronto for an Order directing the C.P.R. to proceed with the grade separation on Dufferin Street, North Toronto Subdivision.
- 81983 Aug. 14—Authorizing the Northern Alberta Railways Company to reconstruct its bridge at mileage 205.9 Slave Lake Subdivision, Alberta.
- 81984 Aug. 14—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under section 9.
- 81985 Aug. 17—In the matter of the application of the C.N.R. for approval of certain revised plans showing details of the subway to be constructed at crossing of their railway and Highway No. 6 at Mont Joli, Quebec.
- 81986 Aug. 17—Authorizing the Quebec Department of Roads to widen the highway where it crosses the C.P.R. at St. Basile South, Quebec.
- 81987 Aug. 17—Approving the operation of the C.N.R. trains over the private sidings serving the Department of National Defence Fort Osborne Barracks in the Town of Tuxedo, Manitoba.
- 81988 Aug. 17—Authorizing the Midland Coal Mining Company Limited, to construct tow entries under the C.N.R. at mileage 48.29 Drumheller Subdivision, Alberta.
- 81989 Aug. 17—Authorizing the C.P.R. to remove its portable station building at Aikins, Saskatchewan.
- 81990 Aug. 17—In the matter of the application of the C.N.R. for an Order permitting them to eliminate Fulton, Ontario, as a flag stop for trains 329-330, and to abandon and remove the station shelter.
- 81991 Aug. 17—Permitting the removal of slow Order at C.P.R. crossing west of the station at Hornby, Ontario.
- 81992 Aug. 17—Permitting the removal of slow Order at C.N.R. crossing east of the station at St. Felicien, Quebec.
- 81993 Aug. 17—Authorizing the C.P.R. to install certain protection at crossing of Highway No. 11 near station shelter at LeCap, Quebec.
- 81994 Aug. 17—Requiring the C.N.R. to install certain protection at the first public crossing west of the station at Ste. Florence, Quebec.
- 81995 Aug. 17—Authorizing the Quebec Department of Roads to relocate Terrebonne Road across the C.P.R. at mileage 131.75 Quebec Subdivision.
- 81996 Aug. 18—Approving the proposed location of storage tanks, etc., of the Amurex Oil Development Company, near the C.N.R. tracks at Cessford, Alberta.
- 81997 Aug. 18—Permitting the removal of slow Order at N.Y.C. crossing of Townline Road at Iona, Ontario.
- 81998 Aug. 18—Permitting the removal of slow Order at C.P.R. crossing at Old Highway No. 1, Regina, Saskatchewan.
- 81999 Aug. 18—Authorizing the N.Y.C. to remove the caretaker at Melbourne, Ontario.
- 82000 Aug. 19—Directing the Quebec Central Railway Company to construct a foot-bridge over its tracks in the Village of Vallée Junction, Quebec.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, September 15, 1953

No. 12

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 82015

In the matter of the application of the City of Lachine, in the Province of Quebec, for an improvement in the protection now provided at the crossing of 55th Avenue and the railway of the Canadian Pacific Railway Company in the City of Lachine, in the Province of Quebec, at mileage 3.85 Winchester Subdivision;

And in the matter of Order No. 81186, dated April 15, 1953:

File No. 27156-304

MONDAY, the 24th day of August, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that Order No. 81186, dated April 15, 1953, be, and it is hereby, amended by striking out paragraph numbered 3 of the said Order and substituting therefor the following:

"3. That the cost of maintenance of the ramps hereby ordered within the extension east and west of the south limit of the right of way of the Canadian Pacific Railway Company, exclusive of the wearing surface, be borne and paid by the Canadian Pacific Railway Company and the cost of maintenance of the remainder of the ramps including maintenance of the wearing surface be borne and paid by the Department of Roads of the Province of Quebec".

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 82056

In the matter of Agreed Charge between the Canadian National Railways, Canadian Pacific Railway Company, Ontario Northland Railways and certain shippers covering the transportation of petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway approved by Order No. 81765, dated July 9, 1953:

File No. 40994-40

WEDNESDAY, the 26th day of August, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

Whereas Sun Oil Company Limited has made application under subsection (6) of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway, and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the agreed charge approved by Order No. 81765, dated July 9, 1953, be, and it is hereby, fixed for the transport of petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway shipped by Sun Oil Company Limited, subject to and upon the terms and conditions in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said charges, fixed as aforesaid, are to come into operation.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 82082

In the matter of Agreed Charge between the Canadian National Railway Company, Canadian Pacific Railway Company and Cities Service Oil Company Limited, McColl-Frontenac Oil Company, Limited, and Shell Oil Company of Canada, Limited, on petroleum products from Hochelaga, Que., Montreal East, Que., and Montreal (Moreau Street), Que., to Hull, Que., and Ottawa, Ont., approved by Order No. 68072, dated October 25, 1946:

And in the matter of Order No. 68728, dated March 17, 1947, which fixed a similar agreed charge for Champlain Oil Products, Limited:

File No. 40994-25

MONDAY, the 31st day of August, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*
F. M. MACPHERSON, *Commissioner.*

It is ordered

1. That the said Order No. 68728, dated March 17, 1947, be, and it is hereby, rescinded.

2. That this Order shall come into force on October 4, 1953.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 82083

In the matter of Agreed Charge between the Canadian National Railway Company, Canadian Pacific Railway Company and Cities Service Oil Company Limited, McColl-Frontenac Oil Company, Limited, and Shell Oil Company of Canada, Limited, on petroleum products from Hochelaga, Que., Montreal East, Que., and Montreal (Moreau Street), Que., to Hull, Que., and Ottawa, Ont., approved by Order No. 68072, dated October 25, 1946:

And in the matter of Order No. 68234, dated December 2, 1946, which fixed a similar agreed charge for Canadian Oil Companies, Limited:

File No. 40994-25

MONDAY, the 31st day of August, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered

1. That the said Order No. 68234, dated December 2, 1946, be, and it is hereby, rescinded.

2. That this Order shall come into force on October 4, 1953.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 82084

In the matter of Agreed Charge between the Canadian National Railway Company, Canadian Pacific Railway Company and Cities Service Oil Company Limited, McColl-Frontenac Oil Company, Limited, and Shell Oil Company of Canada, Limited, covering the transportation of petroleum products from Hochelaga, Que., Montreal East, Que., and Montreal (Moreau Street), Que., to Hull, Que., and Ottawa, Ont., approved by the Order of the Board No. 68072, dated October 25, 1946:

And in the matter of Order No. 68073, dated October 26, 1946, which fixed a similar agreed charge for Imperial Oil Limited:

File No. 40994-25

MONDAY, the 31st day of August, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered

1. That the said Order No. 68073, dated October 26, 1946, be, and it is hereby, rescinded.

2. That this Order shall come into force on October 4, 1953.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 82085

In the matter of Agreed Charge between the Canadian National Railway Company, Canadian Pacific Railway Company and Cities Service Oil Company Limited, McColl-Frontenac Oil Company, Limited, and Shell Oil Company of Canada, Limited, on petroleum products from Hochelaga, Que., Montreal East, Que., and Montreal (Moreau Street), Que., to Hull, Que., and Ottawa, Ont., approved by Order No. 68072, dated October 25, 1946:

And in the matter of Order No. 68227, dated November 28, 1946, which fixed a similar agreed charge for Sun Oil Company Limited:

File No. 40994-25

MONDAY, the 31st day of August, A.D. 1953.

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered

1. That the said Order No. 68227, dated November 28, 1946, be, and it is hereby, rescinded.

2. That this Order shall come into force on October 4, 1953.

JOHN D. KEARNEY,
Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82001 Aug. 19—Permitting the removal of slow order at C.P.R. crossing of Highway No. 55 near station at White Fox, Sask.
- 82002 Aug. 19—Authorizing the Manitoba Department of Public Works to construct Highway No. 14 across the C.P.R. at mileage 64.29 LaRiviere Subdivision.
- 82003 Aug. 21—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Dominion Atlantic Railway Company under section 9.
- 82004 Aug. 21—Amending Order No. 81832 dated July 21, 1953, in the matter of the accident at C.N.R. crossing near station at Laurier, Man.
- 82005 Aug. 21—Authorizing the C.N.R. to operate under the overhead bridge at mileage 145.6 Brazeau Subdivision.
- 82006 Aug. 21—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Wilkie Subdivision, Saskatchewan.
- 82007 Aug. 21—Requiring the C.P.R. to install protection at crossing near the Town of Ponoka, Alta.
- 82008 Aug. 21—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Rosetown Subdivision, Saskatchewan.
- 82009 Aug. 21—Authorizing the C.N.R. to use and operate the bridges at mileage 96.5 and mileage 149.3 Brazeau Subdivision, Alberta.
- 82010 Aug. 21—Permitting the removal of slow order at C.N.R. crossing near station at Oakburn, Man.
- 82011 Aug. 21—Requiring the C.P.R. to install protection at the Commercial Street and the Dominion Atlantic Railway crossing near station at Berwick, N.S.
- 82012 Aug. 21—Authorizing the Saskatchewan Department of Highways to relocate and widen Highway No. 6 across the C.P.R. at mileage 4.2 Lanigan Subdivision.
- 82013 Aug. 21—Permitting the removal of slow order at C.P.R. crossing at Becher Company Spur to Moose Nose gravel pit, Manitoba.
- 82014 Aug. 24—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Prince Albert Subdivision, Saskatchewan.
- 82015 Aug. 24—Amending Order No. 81186 dated April 15, 1953, in the matter of protection at C.P.R. crossing at 55th Avenue, Lachine, P.Q.
- 82016 Aug. 24—Relieving the C.N.R. from erecting fencing between certain mileages on their Unity Subdivision, Alberta.
- 82017 Aug. 24—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Lloydminster Subdivision, Saskatchewan.
- 82018 Aug. 24—Authorizing the Corporation of the Parish of L'Ange Gardien to construct Dufournel Street across the C.N.R. at mileage 10.46 Montmorency Subdivision, Quebec.
- 82019 Aug. 24—Relieving the C.N.R. from erecting fencing between certain mileages on their Coronado Subdivision, Alberta.
- 82020 Aug. 24—Relieving the C.P.R. from erecting fencing between certain mileages on its Parry Sound Subdivision, Ontario.
- 82021 Aug. 24—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Grand Centre, Alta.
- 82022 Aug. 24—Approving the operation of C.P.R. trains over the private siding of the Department of Public Works, Canada, serving the Assembly Wharf, at Nanaimo, B.C.
- 82023 Aug. 24—Approving proposed location of storage tank, etc., of The British American Oil Company Limited, near the C.N.R. tracks at Chatham, N.B.
- 82024 Aug. 24—Authorizing the British Columbia Department of Public Works to construct the highway across the C.P.R. at mileage 95.57 Shuswap Subdivision, British Columbia.
- 82025 Aug. 24—Authorizing the Toronto Harbour Commissioners to construct a siding to serve Crystal Glass & Plastics Limited, across Richardson Street, Toronto, Ontario.
- 82026 Aug. 24—Permitting the removal of slow order at C.N.R. crossing at Cote de Liesse Road, Ville St. Laurent, Que.
- 82027 Aug. 24—Approving automatic block signals from mileage 0 to mileage 20 on the westward track of Shuswap Subdivision, British Columbia, C.P.R.
- 82028 Aug. 24—Authorizing the N.Y.C. to remove the caretaker at Stevensville, Ont.
- 82029 Aug. 24—Permitting the removal of slow order at C.N.R. crossing of Highway No. 10 near station at Bowsman, Man.
- 82030 Aug. 24—Permitting the removal of slow order at C.N.R. crossing of Cascades Street, near Montbec Junction, City of St. Hyacinthe, Que.
- 82031 Aug. 24—Authorizing the C.P.R. to make signal changes to the interlocking at the crossing of its railway and C.N.R. and junction with the Napierville Junction Railway at Delson, Que.

- 82032 Aug. 24—Authorizing the C.N.R. to make signal changes to the interlocking at the crossing of their Yorkton Subdivision at mileage 24.80 and the Wynyard Subdivision of the C.P.R. near Yorkton, Sask.
- 82033 Aug. 24—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R.
- 82034 Aug. 24—Approving plan showing automatic interlocking as installed at the crossing of the C.N.R. and C.P.R. at mileage 92.3 Lampman Subdivision, Sask.
- 82035 Aug. 24—Approving By-law prohibiting the sounding of engine whistle within the limits of the Town of Cote St. Luc, Que.
- 82036 Aug. 25—Approving supplement to Traffic Agreement between the Bell Telephone Company and La Corporation de Telephone de Quebec.
- 82037 Aug. 25—Approving proposed location of storage tank, etc., of Canadian National Railways near their tracks at Sarnia, Ont.
- 82038 Aug. 25—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Lloydminster, Sask.
- 82039 Aug. 25—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Sundridge, Ont.
- 82040 Aug. 25—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Waskada, Man.
- 82041 Aug. 25—Approving proposed location of storage tank, etc., of Mr. Robert Rudy, near the C.N.R. tracks at Tavistock, Ont.
- 82042 Aug. 25—Approving plan submitted to the C.N.R. by the American Leduc Petroleum Limited, showing the location of crude oil loading facilities at Mirror, Alta.
- 82043 Aug. 25—Approving proposed location of storage tank, etc., of Shell Oil Company of Canada, Limited, near the C.N.R. tracks at Chicoutimi, Que.
- 82044 Aug. 25—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Leduc, Alta.
- 82045 Aug. 25—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Winnipegosis, Man.
- 82046 Aug. 25—Approving proposed location of storage tank, etc., of North Star Oil Limited, near the C.N.R. tracks at Laird, Sask.
- 82047 Aug. 26—Authorizing the C.P.R. to use the bridge over the St. Mary-Milk River Development, Alberta.
- 82048 Aug. 26—Relieving the C.P.R. from erecting cattle guards at certain crossings on its Hardisty Subdivision, Alberta.
- 82049 Aug. 26—Requiring the C.N.R. to install protection at crossing of Court Street, Coaticook, Que.
- 82050 Aug. 26—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82051 Aug. 26—Authorizing the C.N.R. to construct a railway siding upon and across Maple Street, Collingwood, Ont.
- 82052 Aug. 26—Authorizing the Imperial Oil Limited to construct a private road across the Interprovincial Pipe Line Company in Section 29-49-21-W4M, Alberta.
- 82053 Aug. 26—Authorizing the C.N.R. to make signal changes of the interlocking at St. Lambert, Que.
- 82054 Aug. 26—Extending the time within which automatic protection is to be installed at C.N.R. crossing of industrial spur and Provincial Highway No. 14/33 at mileage 0.54 of the said spur, near Picton, Ont.
- 82055 Aug. 26—Approving loading of crude oil from tank trucks to tank cars, near the C.N.R. tracks at Coleville, Sask.
- 82056 Aug. 26—In the matter of Agreed Charge between the C.N.R., C.P.R., Ontario Northland Railways and certain shippers covering the transportation of petroleum products from marine terminals and pipe line outlets in Ontario to destinations on the Ontario Northland Railway approved by Order No. 81765, dated July 9, 1953.
- 82057 Aug. 26—Authorizing the Quebec Department of Roads to reconstruct the overhead bridge at mileage 60.66 Rimouski Subdivision.
- 82058 Aug. 26—Approving relocation of the C.P.R. station to be erected at Field, B.C.
- 82059 Aug. 26—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82060 Aug. 26—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Onoway, Alta.
- 82061 Aug. 26—Approving proposed location of storage tanks, etc., of the Cataract Ice Company, near the N.Y.C. tracks at Niagara Falls, Ont.
- 82062 Aug. 26—Approving the operation of C.P.R. trains over the private siding serving Rosco Metal Products (B.C.) Limited, Vancouver, B.C.
- 82063 Aug. 27—Approving proposed location of storage tank, etc., of C.P.R. at Orillia, Ont.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, October 1, 1953

No. 13

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of Rates on Lumber from British Columbia and Alberta to destinations in Eastern Canada, designated "Competitive" by the Railways and subjected to suspension Orders 81490 and 81637.

File No. 26901-62-7

HEARD at Ottawa, June 29, 1953.

Before:

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Appearances:

K. D. M. SPENCE, for the Canadian Pacific Railway.

A. H. HART, for the Canadian National Railways.

C. W. BRAZIER and C. H. BLAIR, for the B.C. Timber Manufacturers' Association, Plywood Association, Shingle Association, etc.

H. HARRIES and ASSOCIATES, for the Alberta Forest Products.

R. E. B. BROCKELSBY, for the Maritime Transportation Commission and the Maritime Lumber Bureau.

M. KALMAKOFF, for the Saskatchewan Timber Board.

H. CRAIG, for the Western Region Lumber Association.

J. J. FRAWLEY, Q.C., for the Province of Alberta.

JUDGMENT

WARDROPE, *Asst. Chief Commissioner:*

The immediate cause of this case was an application dated May 21, 1953, made by British Columbia Lumber Manufacturers' Association; Plywood Manufacturers' Association of British Columbia; and Consolidated Red Cedar Shingle Association of British Columbia (hereinafter referred to as "B.C. shippers") and

a subsequent similar application dated June 20, 1953, made by the Alberta Forest Products Association, (hereinafter called the "Alberta shippers") for suspension of certain tariff provisions of the railways Agent J. F. Flynn's C.T.C. Nos. 529 and 101 which designated as "competitive" certain rates on lumber from British Columbia and Alberta to destinations in Eastern Canada, filed to become effective May 31, 1953.

While the change in the character of the rates by designating them "Competitive" did not alter the rates as shown in the stated tariffs, it did have the effect of removing the application of Canadian Freight Association tariff No. 76-B Agent Watson's C.T.C. No. 1493 and Agent Flynn's C.T.C. No. 610, by means of which the so-called "Bridge Subsidy" reduction in rates is applied to the extent stated therein.

Upon consideration of the applications, the Board issued its Orders 81490 dated the 29th May, 1953, in respect of the tariff from British Columbia, and 81637, dated the 22nd June, 1953, in respect of the tariff from Alberta, suspending the tariff amendments incorporating the "competitive" designation and restoring, during the period of suspension, the previously existing tariff description.

To provide some understanding of the matter here involved it seems advisable to first briefly review the application of this subsidy reduction.

Bridge Subsidy

Following the presentation of the Report dated February 9, 1951, of the Royal Commission on Transportation, Parliament, by Section 18, Chapter 22, 15-16, George VI assented to 21st December, 1951, enacted a provision whereby the cost of maintaining trackage of the Canadian Pacific Railway between Sudbury and Fort William, and a corresponding extent of Canadian National Railways trackage in the same general area, would be defrayed out of the Consolidated Revenue Fund, not to exceed in any year the aggregate sum of seven million dollars.

The statute stipulated, however, that the amounts so paid were to be applied to "to a reduction in the relative level of rates applying on freight traffic moving in both directions between points in eastern Canada and points in western Canada over the trackage to which the payment relates, in such manner as the Board may allow or direct."

Following a public Hearing and receiving the views of interested parties including those of representatives of certain provinces, and notwithstanding the difficulties inherent in attempting to relate a variable cost of maintenance (subject to a maximum sum) to a reduction in rates on traffic to move in the future, the Board issued its Circular No. 272 directing that a specified reduction in rates be made effective May 1, 1952, on certain traffic passing over the aforesaid trackage.

Excluded from the reduction was "Competitive traffic designated as such in the railways' tariffs", and "traffic originating or terminating on the so-called 'bridge'". Subsequently, on September 3, 1952, Amendment No. 1 was issued to the Circular allowing, *inter alia*, the long and short haul provisions of subsection 5, Section 314 of the Railway Act to apply to the traffic so affected and amending the exception on competitive traffic to read "Competitive traffic designated as such in the railways' tariffs (other than traffic that is subject only to the short line competition of railways in Canada)".

The effect of this amendment in this respect was to establish the reduced rates as maximum at intermediate points, and to apply the reduction to rates marked "competitive" only where the competition was solely that of the railway with the longer line between common points meeting the rate of the line with the shorter distance, but only within Canada. All other competitive rates so designated in the railways' tariffs were not to be accorded the reduction.

It might be asked why the Board allowed the reduction to apply or not apply according to how the railways designate the character of the rate in their tariffs, but the answer is that it was impossible for the Board to search out the underlying reasons for publication of every one of the affected rates, of which there are a vast number, and provide a workable tariff for the daily use of railway billing staffs and other interested parties. It is a cardinal principle that tariffs state clearly their provisions as they must be read literally. It would create an impossible situation to leave in the hands of billers, agents, and others the task of establishing the bona fides of each rate.

It was also necessary to cope with the possible fluctuations which would occur in the cost of maintenance and the flow of traffic, consequently the subsidy reduction can never become imbedded in the basic rate structure under present conditions, therefore the subsidy reduction is applied by a master tariff linked to the basic rates by suitable tariff provision.

The Board had determined that it would not be warranted in applying the reduction to traffic which had been granted a competitive rate—to do so would result in such traffic obtaining, at the expense of other traffic, a concession beyond that accorded by reason of the necessities of the competition. As a practicable means, and one that would admit of no misinterpretation, it was deemed advisable to exclude from the subsidy reduction all traffic moving on rates which were designated “competitive” in the railways’ tariffs.

The Board was well aware that some modifications, or refinements might be necessary as experience was gained in actual practice and stated the following in its Circular:

“The views thus obtained justify the Board proceeding with the administration of the statute on an interim basis pending further study and possibly some later amendments.”

In ordinary practice the designation of a rate as competitive in a tariff is not conclusive proof that it is actually competitive. A case in point is “Guy Tombs Limited v. Canadian National Rys. 28 C.R.C. 412” where we ruled that not withstanding the competitive designation the facts did not warrant applying the restrictions imposed thereby.

However, in the working out of the subsidy reduction the Board deliberately depended upon the tariff designations for the application of the reduced rates, and to that extent established such designations as the governing rule.

I think this is sufficiently descriptive of the manner in which the Board attacked the problem of carrying out the wishes of Parliament as expressed in the statute. I can now proceed to deal with the matter involved in the present proceedings.

Where in this Judgment I refer to “basic” rates, it means the rates published in the railways’ tariffs without application of the bridge subsidy reduction.

Basic lumber rates from Pacific Coast

Railway Exhibit No. 1 shows that the Vancouver and Seattle rates on lumber to Toronto and Montreal at October 1, 1924, were on a parity, but that from March 28, 1938, to April 7, 1948, the Seattle rates were subjected to certain increases under various Ex Parte decisions of the Interstate Commerce Commission whereas the rates from Vancouver were maintained without change due, mainly, to the effect of maximum price control exercised by the Wartime Prices and Trade Board.

Effective April 8, 1948, the Vancouver rates were increased 21 per cent under authority of our Order 70425. At that time the Seattle rates were on a higher level than the increased rates from Vancouver, but became approximately equal at June 16, 1950, when the 20 per cent increase authorized by our Order 74512 went into effect.

On that date the Seattle-Toronto rate was 1¢ per 100 lbs. higher than Vancouver-Toronto, and the Seattle-Montreal rate one-half cent under the Vancouver-Montreal rate.

On April 4, 1951, the Seattle rates were increased 2¢ per 100 lbs., under Ex Parte 175, but on July 26, 1951, a twelve per cent increase in rates under authority of our Order 76886 made the Vancouver rates higher than from Seattle. Subsequently on August 28, 1951, a further increase of 2¢ per 100 lbs. was made in the rates from Seattle under authority of I.C.C. Ex Parte 175.

At the latter date the rate from Vancouver to Toronto was 10¢ per 100 lbs. higher than the corresponding rate from Seattle and 12½¢ higher to Montreal than from Seattle.

Exhibit 4, filed by the railways, and consisting of photostat copies of communications exchanged between the B.C. Lumber Manufacturers' Association and the Canadian railways, shows that the shippers had been actively negotiating for lower rates to Eastern Canada from Vancouver, based upon United States competition in the markets at the Eastern Canadian destinations and also upon the pattern of lumber rates within the United States. On October 19, 1951, the railways voluntarily undertook to reduce the rates from the British Columbia Coast to the same level as the rates in effect from Seattle to the eastern Canadian destinations, and to maintain from interior British Columbia the same spread in rates under the Coast rates as applied prior to April 8, 1948. It was additionally agreed to apply such rates as maximum to points north and west of Toronto.

Effective December 15, 1951, the parity with Seattle was thus restored as it had existed prior to March 28, 1938.

Subsequently we authorized further general increases of 9 and 7 per cent under our Orders 80462 and 80965 but such increases were not applied, by agreement between the railways and the shippers as shown in Exhibit No. 4, to the rates so reduced at December 15, 1951.

Meanwhile Parliament had enacted December 21, 1951, the legislation which has become familiarly known as the "bridge subsidy", and the Board issued its Circular No. 272 which applied a reduction in rates, as has been previously explained herein, effective May 1, 1952.

In effecting the adjustment to the level of the Seattle rates on December 15, 1951, the railways did not then designate such rates as "competitive" because they had made them applicable to intermediate territory and had differentially related such rates from intermediate territory, consequently there was no tariff necessity to so designate the rate insofar as the long and short haul provisions of Section 314 of the Railway Act were concerned. It may be noted here, that in general tariff practice a competitive rate is so designated only to prevent its application to or from intermediate territory under the provisions of that section.

Consequently when the bridge subsidy reduction went into effect May 1, 1952, providing for the exclusion of competitive traffic designated as such in the railway tariffs, the absence of such designation in the basic tariff made effective December 15, 1951, resulted in applying the bridge subsidy reduction to the rates which had been put on a parity with those from Seattle.

The rates from Seattle were further increased on May 2, 1952, by authority of the Interstate Commerce Commission, but the Canadian lines did not adjust the basic rates from Vancouver to the Seattle level until May 26, 1952. Because the bridge subsidy reduction has been applied to the basic rates, the adjustment in the basic rates on May 26, 1952, brought about an automatic increase in the rate actually charged to the Shipper or Consignee through the medium of the bridge subsidy reduction tariff, for example, Vancouver to Toronto at May 1, 1952, was \$1.24 and on May 26, 1952, became \$1.32; the increase of 8¢ is the result of the basic rate being increased from \$1.33 to \$1.41.

On May 1, 1953, we revised the bridge subsidy reduction based upon the actual experience gained in the first year of operation thereof. In so doing we re-surveyed the traffic expected to move in the forthcoming subsidy year, and deducted therefrom the traffic which either had moved into the competitive category or would be so moved. In the latter case we were made aware that the basic lumber rates would be so designated "competitive" upon statutory notice and tariffs were filed establishing that designation to become effective May 31, 1953, which tariffs we suspended under these proceedings as aforesaid.

The revised subsidy reduction as from May 1, 1953, is being applied to the basic rates from Vancouver, which were put on a parity with Seattle, and the rates from interior points differentially related thereto, but without such traffic having been included in the necessary calculations required to fix the subsidy reduction.

For this reason there is some urgency in disposing of this case. If the Vancouver basic rate is to be subjected to the bridge subsidy reduction, we must immediately revise the basis for such subsidy reduction; otherwise the available subsidy funds for general application will possibly be exhausted before the end of the subsidy year.

We have been urged by the Applicants to defer decision on this matter until the Board hears and decides a pending application of the B.C. shippers attacking the reasonableness of the lumber rates in general. We cannot assent to such a procedure, nor do we consider it is necessary to so delay our decision. Likewise we are not in any way influenced by the difficulties of administering the bridge subsidy in reaching our decision herein.

Rates from interior British Columbia and Alberta

After the adjustment made effective December 15, 1951, in the rates from the Pacific Coast to restore equality with rates from Seattle, the railways made a further adjustment on December 27, 1951, in rates to eastern Canadian destinations from points in Alberta.

Such adjusted rates likewise incurred the benefit of the bridge subsidy reduction inasmuch as they were also not designated competitive.

The pattern of these interior rates is precisely the same as from the Pacific Coast, and the rates vary only according to their differential relationship with the Coast rates. It was stated in evidence that a similar pattern of rates prevails from the Pacific coast and interior shipping points in the United States. The representations made by the Alberta shippers were chiefly directed to the maintenance of the differential relationship to the rates from the Pacific Coast.

The differential relationship was not applied from points east of Alberta.

Rates from Saskatchewan

Mr. Kalmakoff who appeared on behalf of the Saskatchewan Timber Board questioned the propriety of lower rates from Whitecourt, Alberta, than from Big River, Saskatchewan, pointing out that the rate from the former is \$1.16 whereas from the latter it is \$1.23 and was informed by a railway witness that rates from Saskatchewan had not been considered in the competitive area, but that the situation was being studied in connection with the general rate investigation.

Subsequently Mr. Kalmakoff analysed the relative position of Big River versus Whitecourt and Vancouver as showing that the Big River rates had incurred a 78 per cent increase versus 49 per cent from Vancouver and Whitecourt during the past five years and stated that the Saskatchewan lumber producers were unable to market their product in eastern Canada.

The rate situation of which Mr. Kalmakoff complained is exemplified by the following:

FROM	Miles	To		Miles		
		Toronto Basic Rate	"Bridge" Rate		Montreal Basic Rate	"Bridge" Rate
Vancouver	2695	141	127	2878	142½	128
Whitecourt	2107	130½	116	2254	133½	119
Big River	1815	137	123	1961	142	128

From the foregoing it is evident that the situation of which Mr. Kalmakoff complains is not primarily the result of the application of the bridge subsidy reduction, but it is equally evident that if the said subsidy reduction is withdrawn in the case of Vancouver and Whitecourt, it will tend to ameliorate the position of the Saskatchewan producers.

As the basic rate from Whitecourt due to its relationship to the Coast rates is lower than from Big River, the matter of this relationship is not one for consideration on this limited record and any representations concerning it should be reserved until we deal with the whole level of the lumber rates, upon which a complaint has been filed by the B.C. Shippers.

Discussions and Conclusions

While much has been said as to the status of the basic Coast rate, and rates related thereto from interior points, I am convinced that the main point at issue is whether the Board should apply the bridge subsidy reduction to the lumber traffic involved under the rate conditions existing.

It is quite evident from our Circular No. 272 we intended that the reduced rates made possible by the subsidy should not apply to designated competitive rates other than those made solely to equalize short line distances as between railways in Canada.

That this is a proper conclusion to reach is supported by the fact that a competitive rate should be no lower than the competition demands. To further reduce such rate would, in my opinion, create a preferential condition not warranted by the circumstances. Likewise to allow a portion of the subsidy funds to apply in such circumstances means that traffic not subject to the influence of competition, and presumably the traffic to which the relief afforded by the subsidy is intended to apply, would be deprived of its full benefit.

I have stated already that it was a sheer impossibility for the Board to search out every condition affecting every rate and therefore the competitive designations in the railways' tariffs were made the sole guide. This means, of course, as in the present case, that there will arise in all probability, some question as to whether certain traffic will or will not be subject to the benefit of the bridge subsidy.

Counsel for the B.C. Shippers referred to a rate established in Canadian Freight Association tariff No. 77 (CTC 1481) which applied on "all-freight" as described in the Canadian Freight Classification, which the railway Witness admitted was established on a competitive basis (although not designated "competitive") and to which the bridge subsidy reduction is accordingly applied. In argument, Counsel stated:

"There was one other point that I discussed with Mr. McCoy which I think is of importance. I drew his attention to this Tariff 77. He told me that this item number 30, carloads, was definitely established for competitive reasons. Now, that is not flagged as competitive. It is going to receive the subsidy. Why should the people shipping them at that rate be more entitled to the subsidy than we are? Are the railways to be permitted to say,

well, we will consider this one competitive and we will consider another one not competitive? I do think the Board will have to lay down some definite rules to judge when a rate is to be considered, by the Board, as a competitive rate. The Board could go back into the history of truly competitive rates, about which I was speaking in the transcontinental rates when Mr. Hart quoted that portion, when Mr. Frawley complained that his rates to Alberta were higher than they were to British Columbia. They were competitive rates."

The situation of which Mr. Brazier speaks illustrates the difficulties confronting the Board in attempting to apply the subsidy reduction in a fair and equitable manner. As far as we have been able to determine from the tariffs in our files, the rates in Tariff 77, although applying to "all-freight" are the third class rates, hence no reduction is made to meet competition (if that be the purpose of the rates) on traffic rated third class or lower except where the privilege of mixing may be of some advantage.

It was not developed on the record that a similar type of rate is in effect to Winnipeg, Regina, Moose Jaw, Saskatoon, Lethbridge, Edmonton, and Calgary. Broadly speaking the said rates are in the category of "commodity" rates and do not exclude the application of the long and short haul provisions of Section 314. Witness McCoy stated that such rates were established to promote the interests of the railway and created some saving in costs as compared with the carriage at less than carload rates.

I do not propose to decide here whether these specific "all-freight" rates should or should not incur the subsidy reduction, but as I consider the Board must, before long, re-examine the basis of the subsidy reduction tariff, it should suffice to leave that question for future consideration as possibly other similar rates may be involved also.

Turning now to the specific issues of this case; the question is, are the basic rates on lumber from the Pacific Coast and differentially related territory, the type of rates which Circular No. 272 intended to exclude from the bridge subsidy reduction?

There seems to be no question but that the Coast lumber rates would be on a higher level than today if the Canadian railways had not voluntarily reduced them on December 15, 1951 to the Seattle level, and maintained them at that level since that time. I am of the opinion that this action justifies considering them to be the type of rate to which the Board did not intend the subsidy reduction to apply. That the tariffs did not so exclude them from the bridge subsidy reduction when it first took effect on May 1, 1952, appears to be an oversight.

Much was said at the Hearing about the representations made by United States shippers as to competitive relationships, and that the eastern adjustment was part of a "trade" for increased rates from such territory to prairie points to comply with our Order 81055 finding unjust discrimination in the maintenance of lower rates from Seattle to Regina-Winnipeg destinations than from Vancouver to the same points.

That these two questions became intermingled is evident, but I do not think there is relevancy therein to this case.

Counsel for the B.C. shippers also referred to lower rates to United States points from Vancouver than to Canadian destinations intermediate thereto, such as Windsor vs. Detroit. It seems to me that here also there is no relevancy in these representations. That Vancouver is assisted by the granting of Seattle rates from Vancouver to United States destinations is surely to be commended rather than condemned. The Board has held on many previous occasions that rates to United States points are not the measure for rates to Canadian destinations. That situation is, however, one which is of some importance to the B.C. shippers and I have no doubt they will speak to it when their pending application comes to hearing.

Finding

Upon full consideration of the record I find that the rates on lumber and lumber articles established December 15, 1951, and as subsequently maintained on a basic parity with like rates from Seattle to eastern Canadian points are competitive rates within the meaning of Circular No. 272 as amended.

An Order will issue dismissing the applications and rescinding Orders number 81490 dated May 29, 1953 and 81637 dated June 22, 1953.

HUGH WARDROPE.

OTTAWA, August 7, 1953.

I concur:

A. SYLVESTRE.

ORDER No. 81968

In the matter of rates on lumber from British Columbia and Alberta to destinations in Eastern Canada, designated "Competitive" by the railways and subjected to suspension Orders Nos. 81490 and 81637:

File No. 26901-62-7

WEDNESDAY, the 12th day of August, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon hearing the applications herein of British Columbia Lumber Manufacturers' Association, Plywood Manufacturers' Association of British Columbia, Consolidated Red Cedar Shingle Association of British Columbia and Alberta Forest Products Association at a sitting of the Board held in Ottawa on June 29, 1953, in the presence of Counsel for and representatives of the Canadian Pacific Railway Company, Canadian National Railways, British Columbia Lumber Manufacturers' Association, Plywood Manufacturers' Association of British Columbia, Consolidated Red Cedar Shingle Association of British Columbia, Alberta Forest Products Association, the Maritimes Transportation Commission and the Maritime Lumber Bureau, the Saskatchewan Timber Board, the Western Retail Lumbermen's Association and the Province of Alberta—

It is ordered

1. That the said applications be, and they are hereby, dismissed.
2. That Orders No. 81490, dated May 29, 1954, and No. 81637, dated June 22, 1953, be, and they are hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

GENERAL ORDER No. 789

In the matter of the application of The Railway Association of Canada, for an Order amending General Order No. 755, dated May 19, 1951:

File No. 15382

FRIDAY, the 7th day of August, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that General Order No. 755, dated May 19, 1951, be, and it is hereby, amended by striking out the words "upon whose line the protection is installed and shall be tested at frequent intervals. The interval between such tests shall not exceed a period of twenty-four hours, except on week-ends and holidays, when the interval may be extended up to seventy-two hours, and the method of test shall be such as will indicate" in the first two sentences of the operative part of the said Order and substituting therefor the words "upon whose line the protection is installed, and shall be tested at least once each day, except on week-ends and holidays, when not more than two days may elapse on which no test is made. The method of test shall be such as will indicate."

A. SYLVESTRE,
Deputy Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
JULY, 1953

Railway Accidents	311	Killed 16	Injured 355
Highway Crossing Accidents	36	Killed 12	Injured 44
Total.....	347	Killed 28	Injured 399
		<i>Killed</i>	<i>Injured</i>
Passengers	—	—	89
Employees	—	4	250
Others	—	24	60
Total.....	—	28	399

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

<i>Killed</i>	<i>Injured</i>		NOVA SCOTIA
1	—	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: N.S. C-13698.
NEW BRUNSWICK			
—	1	—	Child walked onto crossing in front of approaching train and was struck.
QUEBEC			
—	3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 29641.
1	—	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	—	Automobile ran into side of train. Licence: Que. 293781.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. T-2457.
ONTARIO			
—	1	—	Track motor car struck by automobile. Licence: Ont. 65202-C.
—	2	—	Auto truck ran into side of train. Licence: Ont. C-25836.
—	1	—	Automobile backed onto crossing in front of approaching train and was struck. Licence: Ont. HU-305.
—	4	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. V-6948.
1	—	—	Automobile ran into side of train. Licence: Ont. 43-A-20.
—	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 5-S-404.
—	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	—	Automobile ran into side of train. Licence: Ont. N-9261.
—	3	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 16-B-42.
—	2	—	Automobile ran into rail being carried on hand car. Licence: Ont. C-6023.
—	2	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. C-51460.
1	—	—	Automobile ran into side of train. Licence: Ont. 819-T-6.
—	1	—	Motorecycle ran into side of train. Licence: Ont. 7200.
MANITOBA			
—	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 3-V-137.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 5-G-870.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Man. 6-T-997.
1	—	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Man. P-49671.

Killed Injured

SASKATCHEWAN

- 1 — Auto truck ran into side of train. Licence: Ont. 28516-T.
- 3 Automobile ran into side of train. Licence: Sask. 150-635.
- 2 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. E-23415.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Sask. 64327.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. C-15363.

ALBERTA

- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. F-10061.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 96-C-63.
- 1 1 Automobile drove onto crossing in front of approaching train. Licence: Alta. 71-D-18.
- 2 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. F-22877.

BRITISH COLUMBIA

- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: B.C. C-45332.
- 1 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. R-6-561.

Of the 36 accidents at highway crossings, 32 occurred at unprotected crossings, and 4 at protected crossings. Thirty-two occurred after sunrise and four after sunset.

OTTAWA, Ont., September 18, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82064 Aug. 28—Approving under Maritime Freight Rates Act, tolls published in tariff filed by the C.N.R. under Sections 3 and 9.
- 82065 Aug. 28—Authorizing the Canadian Pacific Railway Company to close the crossing of its railway and Brook Street, Mattawa, Ont.
- 82066 Aug. 28—Approving proposed location of pipe lines of The British American Oil Company Limited near the C.N.R. tracks at Prince Rupert, B.C.
- 82067 Aug. 28—Permitting the removal of slow order at C.P.R. crossing near station at Poplar Point, Manitoba.
- 82068 Aug. 28—Authorizing the C.P.R. to remove its shelter at Allan Park, Ontario.
- 82069 Aug. 28—Authorizing the Township of Caledon, Ontario, to improve the sight lines at the C.N.R. crossing east of Inglewood Station, Ontario.
- 82070 Aug. 28—Authorizing the Township of Caledon to improve the sight lines at the C.N.R. crossing of the highway east of the station at Inglewood, Ontario.
- 82071 Aug. 28—Authorizing the Quebec Department of Roads to construct a highway across the C.N.R. at mileage 18-62 Montmorency Subdivision.
- 82072 Aug. 28—Authorizing the Rural Municipality of Ferrell No. 101, Saskatchewan, to provide sight lines where the north and south road allowance crosses the C.N.R. between the S.W. $\frac{1}{4}$ Sec. 15-12-25-W2M and the S.E. $\frac{1}{4}$ Sec. 16-12-25-W2M.
- 82073 Aug. 28—Approved under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82074 Aug. 28—Approved under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.N.R. under Sections 3 and 9.
- 82075 Aug. 28—Permitting the removal of slow order of the C.P.R. crossing at Talbot Avenue, Winnipeg, Manitoba.
- 82076 Aug. 28—Requiring the C.N.R. to install certain protection at the crossing of their railway and Pitt Street, Cornwall, Ont.
- 82077 Aug. 28—In the matter of the application of the C.P.R. for an Order amending Order No. 79829, September 25, 1952, which directed it to proceed with a grade separation on Duferin Street, Toronto, Ontario, under the tracks of its North Toronto Subdivision.
- 82078 Aug. 31—Approved under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82079 Aug. 31—In the matter of the application of the Great Northern Railway Company in regard to a privilege granted to the National Harbours Board for using the line of railway of the Great Northern Railway Co. extending from False Creek to Burrard Inlet, Vancouver, B.C.
- 82080 Aug. 31—Recommending an agreement in regard to the use by the National Harbours Board of the line of railway of the Great Northern Railway Company extending from False Creek to Burrard Inlet in Vancouver, B.C.
- 82081 Aug. 31—Permitting the removal of slow order of the Dominion Atlantic Railway Company and Prospect Street, Yarmouth, N.S.
- 82082 } Aug. 31—In the matter of Agreed Charge between the C.N.R., C.P.R. and certain
82083 } Oil Companies on petroleum products from Hochelaga, Que., Montreal East,
82084 } Que., and Montreal, Que., to Hull, Que., and Ottawa, Ont., approved by
82085 } Order No. 68072, dated October 25, 1946.
82086 } Aug. 31—Approved under Maritime Freight Rates Act tolls published in Tariff filed
82087 } by the C.N.R. under Sections 3 and 9.
82088 }
- 82089 Aug. 31—Permitting the removal of slow order of C.N.R. crossing on Rouleau Street, Rimouski, Quebec.
- 82090 Sept. 2—In the matter of the application of the Town of Champlain, State of New York, for an Order directing the C.N.R. to install additional protection at the crossing of their railway and highway No. 9B, in the Province of Quebec at mileage 45-96 Rouses Point Subdivision.
- 82091 Sept. 2—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Neilburg, Sask.
- 82092 Sept. 2—Authorizing the C.N.R. and C.P.R. to operate their trains through the interlocking plant near Gladstone, Man.
- 82093 Sept. 2—Permitting the removal of slow order on C.N.R. crossing at mileage 63-7 Gladstone Subdivision, Manitoba.
- 82094 Sept. 2—In the matter of application of the C.N.R. for an extension of time within which they were required by Order No. 81358 dated May 9, 1953, to install certain protection at Montée des Sources Road, Town of Pointe Claire, Que.
- 82095 Sept. 2—Approved under the Maritime Freight Rates Act tolls published in tariff filed by C.N.R. under Sections 3 and 9.
- 82096 Sept. 2—Approved under the Maritime Freight Rates Act tariffs filed by the C.N.R. Section 3.

- 82097 Sept. 2—Approved under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R.
- 82098 Sept. 2—Approved under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82099 Sept. 3—Permitting the removal of slow order of C.N.R. crossing of Patterson Street, Campbellton, N.B.
- 82100 Sept. 3—In the matter of the shipment of small arms ammunition, explosives Class C, by rail express as governed by the Board's Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Express Service, approved by General Order No. 799, dated January 9, 1953.
- 82101 Sept. 3—Authorizing the C.N.R. to operate under the overhead bridge at Craig Street, Richmond, Quebec.
- 82102 Sept. 3—In the matter of the application of the C.P.R. for an order amending Order No. 81791 dated July 16, 1953, which authorized the installation of protection at the crossing of Martindale Road on the C.P.R. at mileage 2, Webbwood Subdivision, Ontario.
- 82103 Sept. 3—Authorizing the C.N.R. to construct an extension of passing track across the road allowance at Ardbeg, Ontario.
- 82104 Sept. 3—Authorizing the Consumers' Co-Operative Refineries Limited, to construct an industrial spur over the pipe line of the Interprovincial Pipe Line Company at mileage 2.2 Lanigan Subdivision of the C.P.R., Saskatchewan.
- 82105 Sept. 3—Approving the operation of C.N.R. train over the tracks serving the Dept. of National Defence (R.C.A.F.) at Calgary, Alberta.
- 82106 Sept. 4—Relieving the C.N.R. from erecting right of way fencing at certain mileages on the Cowan Subdivision.
- 82107 Sept. 4—Authorizing the C.N.R. to reconstruct a bridge over the Red Deer River, Manitoba.
- 82108 Sept. 4—Relieving the C.N.R. from erecting right of way fencing at certain mileages on the Bodo Subdivision.
- 82109 Sept. 4—Permitting the removal of slow order on the C.P.R. crossing near Pilot Butte, Saskatchewan.
- 82110 Sept. 4—Permitting the removal of slow order on the C.P.R. crossing at Steeles Avenue near Emery, Ontario.
- 82111 Sept. 4—Relieving the C.N.R. from erecting right of way fencing on its Erwood Subdivision, Manitoba.
- 82112 Sept. 4—Permitting the removal of slow order at the C.P.R. crossing near Realm, B.C.
- 82113 Sept. 4—Permitting the removal of slow order at C.N.R. crossing near the station at Minto, Manitoba.
- 82114 Sept. 4—In the matter of application of the C.N.R. for approval of plan showing protection as installed at crossing of railway and Hope and Woodstock Streets, Tavistock, Ontario.
- 82115 Sept. 4—Restricting speed at the crossing, in the Town of Port Colborne, Ontario.
- 82116 Sept. 4—Approved under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82117 Sept. 4—Authorizing the C.P.R. to construct and maintain proposed industrial siding to serve the Township of Etobicoke Industrial area "H", Ontario.
- 82118 Sept. 4—Approved under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82119 Sept. 4—Approval of Agreement between the Bell Telephone Company of Canada and La Compagnie de Téléphone de Charlevoix Saguenay.
- 82120 Sept. 4—Permitting removal of slow order at the C.P.R. crossing at Albion, B.C.
- 82121 Sept. 4—Approval of temporary restricted clearances at the highway bridge over the C.P.R. at mileage 0.5 Timiskaming Subdivision, Ontario.
- 82122 Sept. 4—Exempting The London and Port Stanley Railway from General Order No. 785.
- 82123 Sept. 4—Authorizing the City of Regina, Saskatchewan, to widen Albert Street where it crosses the C.N.R. north of 3rd Avenue.
- 82124 Sept. 4—Authorizing the City of Regina, Saskatchewan, to widen Albert Street where it crosses the C.N.R. at mileage 93.5 Qu'Appelle Subdivision.
- 82125 Sept. 8—Authorizing the Sun Pipe Line Company to construct a pipe line under the tracks of the C.N.R. at certain locations in the Province of Ontario.
- 82126 Sept. 8—Authorizing the New York Central Railroad Company to remove the caretaker at Aylmer, Ontario.
- 82127 Sept. 8—Permitting the removal of slow order at C.P.R. crossing at Clyde Road near Galt, Ontario.
- 82128 Sept. 8—Authorizing the City of Lethbridge, Alberta, to construct a public crossing under the viaduct of the C.P.R. in the S.W. $\frac{1}{4}$ Sec. 1-9-22-W4M and the N.W. $\frac{1}{4}$ Sec. 36-8-22-W4M.

- 82129 Sept. 8—Authorizing the Saskatchewan Department of Highways and Transportation to construct the highway across the right of way of the C.P.R. east of Meadow Lake, Saskatchewan.
- 82130 Sept. 8—Approving proposed location of storage tank of Standard Oil Company of Revelstoke, B.C.
- 82131 Sept. 9—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and the Huronian Company Limited.
- 82132 Sept. 9—Requiring the City of Granby, Que., to install protection at crossing of C.N.R. and St. Charles Street.
- 82133 Sept. 9—Authorizing the Village of Villeneuve, Que., to construct a highway across the C.N.R.
- 82134 Sept. 9—Approving By-law of the City of Edmonton, Alta., in regard to the sounding of engine whistle.
- 82135 Sept. 9—In the matter of the application of the Northern Alberta Railways Company for approval of standard passenger tariff C.T.C. No. 582.
- 82136 Sept. 9—Authorizing the C.N.R. to construct an industrial spur track along and across Buttrey Street, Niagara Falls, Ontario.
- 82137 Sept. 10—Permitting the removal of slow order at crossing of the C.N.R. and Old Malton Road, near station at Malton, Ontario.
- 82138 Sept. 10—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82139 Sept. 10—Authorizing the C.N.R. to reconstruct eastern portion of the bridge over the north arm of the Fraser River, B.C.
- 82140 Sept. 10—Approving proposed location of storage tanks, etc., of C.N.R., near their tracks at Bishop's Falls, Nfld.
- 82141 Sept. 10—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 82142 Sept. 11—Permitting the removal of slow order at N.Y.C. Railroad Company and Council Road crossing, east of LaSalette, Ont.
- 82143 Sept. 11—Approving operation of the Great Northern Railway Company trains over the private siding serving British Ropes Canadian Factory Limited, Vancouver, B.C.
- 82144 Sept. 11—Authorizing the C.N.R. to make signal changes between mileage 0.25 and mileage 0.5 Batiscan Subdivision, Quebec.
- 82145 Sept. 11—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Naicam, Sask.
- 82146 Sept. 11—Permitting the removal of slow order at C.N.R. crossing of Highway No. 14, near the City of Edmonton, Alberta.
- 82147 Sept. 11—Authorizing the C.N.R. to reconstruct the bridge over the Wood River at mileage 77.0 Gravelbourg Subdivision, Saskatchewan.
- 82148 Sept. 11—Authorizing the C.N.R. to use the bridge across the Muskoka River, Ont.
- 82149 Sept. 11—Requiring the C.N.R. to install protection at crossing of Provincial Highway No. 10, near station at Hardwood Ridge, New Brunswick.
- 82150 Sept. 11—In the matter of the application of the C.N.R. for an Order amending Order No. 81268 dated April 29, 1953, which authorized them to make changes in the protection at the crossing of their railway and Degg and Park Streets, Chatham, Ontario.
- 82151 Sept. 11—Authorizing the C.N.R. to abandon their station at Hatchley, Ontario.
- 82152 Sept. 11—Permitting the removal of slow order at C.N.R. crossing near east switch at Twin City, Ontario.
- 82153 Sept. 11—Restricting the speed of train at C.N.R. crossing of Flora Street, St. Thomas, Ontario.
- 82154 Sept. 11—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Stephenville Crossing, Newfoundland.
- 82155 Sept. 11—Permitting the removal of slow order at C.N.R. crossing at mileage 49.25 Rosetown Subdivision, Saskatchewan.
- 82156 Sept. 14—Permitting the removal of slow order at N.Y.C. crossing of Stanley Avenue, Niagara Falls, Ontario.
- 82157 Sept. 14—Approving proposed location of storage tanks, etc., of Canadian Industries Limited, near the C.N.R. tracks at Maitland, Ontario.
- 82158 Sept. 14—Permitting the removal of slow order at C.P.R. crossing near station at Bridgeford, Saskatchewan.
- 82159 Sept. 14—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82160 Sept. 14—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.N.R. under Sections 3 and 9.
- 82161 Sept. 14—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Radville, Saskatchewan.
- 82162 Sept. 14—Requiring the C.N.R. to install certain protection at the crossing of Cascades Street, St. Hyacinthe, Quebec.

- 82163 Sept. 14—Authorizing the City of Saskatoon, Sask., to remove the diamond crossing, etc., at the crossing of the C.P.R. and Avenue A at 23rd Street, Saskatoon, Saskatchewan.
- 82164 Sept. 14—Authorizing the Quebec Department of Roads to widen Highway No. 11 across the C.P.R. in the Municipality of the Parish of Ste. Rose East, County of Laval, Quebec.
- 82165 Sept. 14—Permitting L'Air Liquide to lay a pipe line carrying oxygen and acetylene along the C.N.R. at Montreal, Quebec.
- 82166 Sept. 14—In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act; and the Order of the Board No. 81607, dated June 17, 1953. approving tolls published in Tariff C.T.C. No. 1212, filed by the Dominion Atlantic Railway Company.
- 82167 Sept. 14—Approving proposed location of storage tanks, etc., of The Steel Company of Canada, near the C.N.R. tracks at mileage 1·78 Hibernia Subdivision, Montreal, Quebec.
- 82168 Sept. 14—Authorizing the C.N.R. to make changes to the signal at the crossing of the C.P.R. at Alix, Alberta.
- 82169 Sept. 14—Relieving the C.N.R. from maintaining right of way fencing on their Winnipegosis Subdivision, Manitoba.
- 82170 Sept. 15—Requiring the Chesapeake and Ohio Railway Company to install certain protection at crossing of Highway No. 98, near Blenheim Junction, Ontario.
- 82171 Sept. 15—Approving the operation of C.N.R. trains over the industrial siding serving the premises of the Ford Motor Company of Canada Limited, Windsor, Ont.
- 82172 Sept. 15—Authorizing the B.C. Department of Public Works to construct a highway across the C.P.R. at mileage 85·5 Princeton Subdivision, British Columbia.
- 82173 Sept. 16—In the matter of the application of The Bell Telephone Company of Canada, for an order approving the terms and conditions of the issue, sale or other disposition of not more than 1,940,000 shares of the capital stock of the Bell Telephone Company of Canada.
- 82174 Sept. 16—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under sections 3 and 9.
- 82175 Sept. 16—Permitting the removal of slow order at C.P.R. crossing, being the second public crossing east of the station at Yamachiche, P.Q.
- 82176 Sept. 16—Exempting the C.N.R. from maintaining fencing at certain mileages on their Viking Subdivision, Alberta.
- 82177 Sept. 16—Requiring the C.N.R. to install protection at crossing of Mountain Street, Granby, Quebec.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

October 15, 1953

No. 14

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Municipality of the Village of Vallee Junction, Province of Quebec, for an Order directing the Quebec Central Railway Company to build a foot-bridge over its tracks to accommodate the pedestrians going to the station located in that Municipality.

File No. 46529

Before:

The Hon. J. D. KEARNEY, *Chief Commissioner.*

Mr. A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Appearances:

Mr. L. G. PREVOST, Q.C., for the Quebec Central Railway Company.

Mr. ROBERT CLICHE, for the Municipality of the Village of Vallee Junction.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

This application was heard at St. Joseph de Beauce on the 5th day of May, 1952, but our decision was held in abeyance at the request of the municipal authorities of Vallee Junction and it was only on the 27th of June, 1953, that the Mayor communicated with the Board requesting us to hand down our decision.

The station at Vallee Junction is located on a land gradient and the pedestrians leaving the station are using a long wooden stairway to climb up the hill. That stairway is old and decrepit and belongs to nobody in particular; when repairs are required, an appeal is made to the public for a subscription. At the foot of the stairway, three tracks must be crossed and, as there is no public crossing at that point, passengers are compelled to become "trespassers". Very often freight cars obstruct the way so that pedestrians cross between the cars and sometimes under them. There is a public road leading to the station on the south side and along this road is the hotel in which is located the Post

Office but the road leading to the centre of the village is more than a quarter of a mile long, it is unpaved, has no sidewalks; that is the reason why the stairway is being used instead of the road. The main track leads to Sherbrooke but Vallee Junction is a railway junction leading to Ste. Sabine and serving the whole of Beauce region along the way. The owner of the land on which the stairway is located gave the required land free of charge to the Municipality—(Exhibit No. 4 filed at the hearing).

There is no doubt whatsoever that the present situation is hazardous and that the application should be granted in the interest of public safety and convenience.

Therefore, the application is granted and the Railway Company is directed to construct a foot-bridge across its tracks in line with the south platform of the Vallee Junction Station, to connect the first street located east of the railway right-of-way with the south platform of the station. This foot-bridge to be constructed in accordance with the requirements of the Board's General Order No. 589, and detail plans to be submitted for the approval of an Engineer of the Board.

The cost of construction and maintenance of the foot-bridge to be borne fifty per cent by the Municipality of Vallee Junction and fifty per cent by the Railway Company. The cost of clearing snow and ice to be borne by the Municipality of Vallee Junction.

An Order to issue accordingly.

A. SYLVESTRE,
Deputy Chief Commissioner.

OTTAWA, July 31, 1953.

I concur:

JOHN D. KEARNEY.

ORDER No. 82000

In the matter of the application of the Municipality of the Village of Vallee Junction, in the Province of Quebec, for an Order directing the Quebec Central Railway Company to build a foot-bridge over its tracks to accommodate the pedestrians going to the station located in that Municipality.

File No. 46529

WEDNESDAY, the 19th day of August, A.D. 1953.

HON. MR. JUSTICE JOHN D. KEARNEY, *Chief Commissioner.*
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Upon hearing the application at a hearing held in St. Joseph de Beauce, in the Province of Quebec, on May 5, 1952, in the presence of Counsel for the Quebec Central Railway Company and the Municipality of the Village of Vallee Junction—

It is ordered

1. That the Quebec Central Railway Company be, and it is hereby, directed to construct and maintain a foot-bridge over its tracks in the Village of Vallee Junction, in the Province of Quebec, in line with the south platform of the Vallee Junction station to connect the first street located east of the railway right of way with the south platform of the station.

2. That the foot-bridge hereby ordered be constructed in accordance with the requirements of General Order No. 589, detail plans showing the layout thereof to be submitted for the approval of an Engineer of the Board.

3. That the cost of construction and future maintenance of the foot-bridge hereby ordered be borne and paid in equal amounts by the Municipality of the Village of Vallee Junction and the Quebec Central Railway Company.

4. That the cost of clearing snow and ice at the said foot-bridge be borne and paid by the Municipality of the Village of Vallee Junction.

JOHN D. KEARNEY,
Chief Commissioner,
The Board of Transport Commissioners for Canada.

(TRADUCTION)

Requête de la municipalité de Vallée-Jonction, province de Québec, demandant qu'il soit ordonné à la compagnie du chemin de fer Québec Central de construire une passerelle au-dessus de ses voies pour accommoder les piétons se rendant à la gare de cette municipalité.

Dossier 46529

Requête entendue par:

L'HON. J. D. KEARNEY, *Commissaire en chef.*

M. A. SYLVESTRE, C.R., *Commissaire en chef suppléant.*

Ont comparu:

M. L.-G. PREVOST, C.R., pour la compagnie du chemin de fer Québec Central.

M. ROBERT CLICHE, pour la municipalité du Village de Vallée-Jonction.

JUGEMENT

SYLVESTRE, Commissaire en chef suppléant,

Cette cause fut entendue à Saint-Joseph-de-Beauce le 5 mai 1952 mais notre décision a été retardée à la demande des autorités municipales de Vallée-Jonction et ce n'est que le 27 juin 1953 que le maire a écrit à la Commission pour nous demander de rendre notre décision.

La gare de Vallée-Jonction est située dans une déclivité de terrain et le public voyageur à pied se sert d'un long escalier en bois pour monter la côte. Cet escalier est en état de vétusté assez avancée et n'appartient à personne et quand il a besoin de réparations on fait un appel au public pour une souscription. Au bas de l'escalier il faut traverser trois voies ferrées et, comme il n'y a aucune traverse publique, les voyageurs deviennent par le fait même des contrevenants ou ce qui s'appelle en anglais des "trespassers"; souvent des wagons à fret bloquent la voie de sorte que les voyageurs passent entre les wagons et parfois en dessous. Il y a bien un chemin public conduisant à la gare, du côté sud, et un hôtel dans lequel se trouve un bureau de poste mais ce chemin pour conduire au centre du village a plus d'un quart de mille, n'est pas pavé, n'a pas de trottoirs et c'est la raison pour laquelle on se sert de cet escalier. La voie ferrée

principale conduit à Sherbrooke mais Vallée-Jonction est une jonction du chemin de fer conduisant jusqu'à Sainte-Sabine en desservant toute la Beauce. Le propriétaire du terrain sur lequel se trouve cet escalier a donné gratuitement à la municipalité le terrain voulu—(pièce n° 4 produite à l'audition).

Il n'y a aucun doute que la situation actuelle est dangereuse et, pour la commodité, la sécurité et l'intérêt du public, l'amélioration que l'on demande est justifiée.

En conséquence, la requête est accordée et il est ordonné à la compagnie du chemin de fer de construire une passerelle au-dessus de ses voies dans le prolongement de la plate-forme située au sud de la gare de Vallée-Jonction, afin de relier la première rue à l'est de l'emprise du chemin de fer avec la plate-forme située au sud de la gare. Cette passerelle devra être construite conformément aux dispositions de l'ordonnance générale n° 589 de la Commission et des plans détaillés devront être soumis pour l'approbation d'un ingénieur de la Commission.

Le coût de construction et d'entretien de cette passerelle devra être défrayé cinquante pour cent par la municipalité de Vallée-Jonction et cinquante pour cent par la compagnie du chemin de fer. Le coût de l'enlèvement de la neige et de la glace devra être payé par la municipalité de Vallée-Jonction.

Une ordonnance sera émise à cet effet.

A. SYLVESTRE,
Commissaire en chef suppléant.

OTTAWA, le 31 juillet 1953.

J'agrée:

JOHN D. KEARNEY.

ORDONNANCE n° 82000

En ce qui concerne la requête de la municipalité du village de Vallée-Jonction, dans la province de Québec, demandant une ordonnance enjoignant la compagnie de chemin de fer Québec Central de construire une passerelle sur ses voies pour accommoder les piétons se rendant à la station située dans cette municipalité.

Dossier n° 46529

MERCREDI, le 19^e jour d'août, A.D. 1953.

L'HONORABLE JUGE JOHN D. KEARNEY, *Commissaire en chef.*
A. SYLVESTRE, C.R., *Commissaire en chef suppléant.*

Après avoir entendu la requête à une audience tenue à St-Joseph-de-Beauce, dans la province de Québec, le 5 mai 1952, en présence de l'avocat de la compagnie de chemin de fer Québec Central et la municipalité du village de Vallée-Jonction—

Il est ordonné

1. Que la compagnie de chemin de fer Québec Central soit, et est par les présentes, enjointe de construire et d'entretenir une passerelle sur ses voies dans le village de Vallée-Jonction, dans la province de Québec, en ligne avec la plate-forme sud de la station de Vallée-Jonction pour raccorder la première rue située à l'est de l'emprise du chemin de fer avec la plate-forme sud de la station.

2. Que la passerelle ordonnée par les présentes soit construite en conformité des exigences de l'ordonnance générale n° 589 et que des plans détaillés indiquant sa disposition soient soumis à l'approbation d'un ingénieur de la Commission.

3. Que le coût de la construction et de l'entretien futur de la passerelle par les présentes ordonnée soit supporté et payé à parts égales par la municipalité du village de Vallée-Jonction et la compagnie de chemin de fer Québec Central.

4. Que le coût du déblaiement de la neige et de la glace sur ladite passerelle soit supporté et payé par la municipalité du village de Vallée-Jonction.

JOHN D. KEARNEY,
Commissaire en chef.

APPLICATION OF THE BELL TELEPHONE COMPANY OF CANADA
FOR APPROVAL OF EXTENDED AREA SERVICE IN THE
HAMILTON, ONT., TELEPHONE AREA

File C.955.170

SIXTH SUPPLEMENTAL JUDGMENT⁽¹⁾

By THE BOARD:

By its application dated the 28th July, 1953, The Bell Telephone Company of Canada (hereinafter referred to as the Company) seeks our approval of its plan to accord to subscribers of the Ancaster, Burlington, Dundas, Stoney Creek, and Waterdown exchanges, extended area service with the Hamilton exchange.

Under this plan subscribers in these five exchanges will have free-calling with the Hamilton exchange subscribers and with the subscribers in the immediately adjoining exchange.

The plan is substantially the same as instituted in other large exchange centres, namely, Montreal, Ottawa, Toronto, Quebec and Windsor which were approved in previous supplemental judgments as stated in the footnote, and is the last of such plans which were initially proposed by the Company at the time of the hearing of its revenue increase application of 1950 and defined therein as Metropolitan Service.

Inasmuch as the plan contemplates non-optional service it was made a requirement of our 1950 Judgment that a plebiscite be conducted in each affected exchange to ascertain the wishes of the majority of the subscribers and whether they are willing to incur the higher exchange rates involved.

Such a plebiscite was conducted and a substantial majority of the total subscribers of each exchange, and an even greater majority of the subscribers who voted, indicated that they desired the plan to be established and were willing to incur the payment of Hamilton rates.

An affidavit, sworn to by C. O. Colbert, District Manager of the Company at Hamilton, forms part of the application and shows that all subscribers to be affected by the extended service with Hamilton in the five exchanges were accorded the right to vote, and that the results of such voting are as follows:

Exchange	Per cent of subscribers voting in favour;	
	of the Total Subscribers.	of the Total Subscribers who voted.
Ancaster	70·6%	94·2%
Burlington	67·2%	84·3%
Dundas	63·6%	86·6%
Stoney Creek	71·7%	94·3%
Waterdown	69·6%	94·0%

⁽¹⁾ Prior Judgments: 40 J.O.R. & R. 17A; 41 J.O.R. & R. 1, 184, 209, 282, 324.

Not included in the plebiscite were subscribers in the areas known as Jerseyville and Carlisle, who are to be served by exchanges to be established in such areas. Such subscribers will be accorded local calling with the Ancaster and Waterdown subscribers, respectively, which is substantially the same service as accorded at present.

Subscribers in the Hannon exchange, which adjoins the Hamilton exchange, are not included in the present extended area service plan. The Company states that plans for that exchange are still under consideration.

Subscribers in the Jerseyville, Carlisle, and Hannon exchange areas have been informed of the proposals respecting the other exchanges.

Upon consideration of all that has been submitted and in view of the substantial majority of votes in favour of the plan, we approve the application, and will, upon submission of tariff amendments filed to become effective on not less than thirty days' notice, approve them.

The approval hereby given is subject to the same provisions respecting exchange grouping as set out in our Judgment of July 18, 1951 (41 JOR&R 184) for extended area service in the Ottawa area.

A. SYLVESTRE.

FRANK M. MACPHERSON.

OTTAWA, August 14, 1953.

ORDER No. 82222

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 13 to Agreed Charge Tariff C.T.C. (AC) No. 14:

File No. 40994·16

TUESDAY, the 22nd day of September, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 13 to Agreed Charge Tariff C.T.C. (AC) No. 14, on file with the Board under file No. 40994·16, be, and it is hereby, approved; and that the date as from which the said Supplement No. 13 shall be deemed to have become operative is hereby fixed as October 4, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 82244

In the matter of the application of the Canadian National Railways and Central Vermont Railway Company, hereinafter called the "Applicants", for an Order authorizing them to discontinue all their passenger train service between the Canadian-United States border and St. Johns, in the Province of Quebec, and St. Johns and Montreal:

And in the matter of the application of A. Dandurand, Secretary, Committee for the Conservation of the People's Railway Rights, for reconsideration of the Board's Order No. 81134, dated April 2, 1953:

File No. 26323

FRIDAY, the 25th day of September, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sitting of the Board held at Montreal on September 24, 1953—

It is ordered

1. That the Applicants be, and they are hereby, authorized to discontinue their passenger trains Nos. 43, 44, 143 and 144 between the Canadian-United States border and St. Johns, in the Province of Quebec, and between St. Johns and Montreal, in the Province of Quebec.

2. That Order No. 81134, dated April 2, 1953, and paragraph numbered 3 of Order No. 71831, dated January 8, 1949, be, and they are hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
AUGUST, 1953

Railway Accidents	282	Killed 18	Injured 315
Highway Crossing Accidents	27	Killed 21	Injured 31
Total.....	309	Killed 39	Injured 346
		<i>Killed</i>	<i>Injured</i>
Passengers		—	83
Employees		6	216
Others		33	47
Total.....		39	346

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

NOVA SCOTIA

Killed Injured

- 7 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.S. 52014.

QUEBEC

- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 190-555.
— 1 Horse-drawn wagon drove onto crossing in front of approaching train and was struck.
— 1 Automobile drove onto crossing in front of backing train and was struck.
Licence: Que. 62-790.

ONTARIO

- 2 Automobile ran into side of train. Licence: Ont. 24-J-21.
1 1 Track motor car struck by tractor trailer truck. Licence: Ont. C-44201.
— 1 Pedestrian attempted to cross under drawbar when train started to move.
2 — Automobile stalled on crossing in front of approaching train and was struck.
Licence: Ont. V-2704.
— 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 287-A-7.
— 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 20136-C.
— 1 Automobile ran into side of train. Licence: Ont. 4-D-760.
1 1 Automobile ran into side of train. Licence not given.
— 1 Auto truck ran into side of train. Licence: Ont. 82-969-C.
4 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 91-992-C.

MANITOBA

- 1 Auto truck backed onto crossing into side of train. Licence not given.
1 6 Automobile ran into side of train. Licence: Man. 8-P-609.
1 — Auto truck ran into side of train. Licence: Man. T-24389.
1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Man. T-7992.
— 1 Auto truck stalled on crossing and was struck by train. Licence: Man. 56-175.

SASKATCHEWAN

- 2 Auto truck drove onto crossing in front of approaching train and was struck.
No licence given.
— 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. D-1177.
— 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Sask. 92-913.
1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. C-13699.
— 2 Automobile ran into side of train backing over crossing. Licence: Sask. 126-815.

BRITISH COLUMBIA

Killed Injured

- 2 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Sask. 143-243.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. 3-T-954.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. 4-K-647.
-

Of the 27 accidents at highway crossings, 19 occurred at unprotected crossings, and 8 at protected crossings. Twenty occurred after sunrise and seven after sunset.

OTTAWA, Ont., September 30, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82178 Sept. 16—Authorizing the Municipality of Grenville and Augmentation, P.Q., to construct a highway across C.P.R. at mileage 64·60, Lachute Subdivision.
- 82179 Sept. 16—Authorizing the C.N.R. to use the bridge over Chaloude Creek in the Province of Quebec, mileage 75·58, Grand Mere Subdivision.
- 82180 Sept. 16—Requiring the C.P.R. to install protection at crossing of the Grand River Railway and Ottawa Street, Kitchener, Ontario.
- 82181 Sept. 16—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Rocanville, Saskatchewan.
- 82182 Sept. 16—Approving the proposed location of storage tanks, etc., of Imperial Oil Limited near the C.P.R. tracks at La Fleche, Saskatchewan.
- 82183 Sept. 16—Restricting the speed of trains at C.N.R. crossing and Avenue "P", Saskatoon, Saskatchewan.
- 82184 Sept. 16—Relieving the C.N.R. from erecting fences at certain portion of their Vegreville Subdivision, Alberta.
- 82185 Sept. 16—Authorizing the City of Winnipeg, Manitoba, to construct Scott Street across two spur tracks C.N.R., Winnipeg, Manitoba.
- 82186 Sept. 16—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Dominion Atlantic Railway Company under Section 9.
- 82187 Sept. 16—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.N.R. under Section 3.
- 82188 Sept. 17—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Dominion Atlantic Railway Company under Section 9.
- 82189 Sept. 17—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.N.R. under Sections 3 and 9.
- 82190 Sept. 17—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the C.N.R. under Sections 3 and 9.
- 82191 Sept. 17—Permitting the removal of slow order at the C.N.R. crossing east of switch at Villeneuve, Alberta.
- 82192 Sept. 17—Permitting removal of slow order at C.N.R. crossing near station at Fairview, Manitoba.
- 82193 Sept. 17—Permitting the removal of slow order at C.P.R. crossing of Evans Avenue near Obico, Ontario.
- 82194 Sept. 17—Authorizing the C.N.R. to operate their trains through the interlocking at the Loop Junction, Saskatoon, Saskatchewan.
- 82195 Sept. 18—Approving the clearances of temporary false work during construction of the bridge over Notre Dame Street East, by the C.P.R., Montreal, P.Q.
- 82196 Sept. 18—Approving clearances at the corner of C.N.R. round house and the track leading to the turntable in Truro Yard, Truro, N.S.
- 82197 Sept. 18—Approving plan showing relocation of Trans Mountain Oil Pipe Line Company pipe line within the Yale Division of the Yale District, Province of British Columbia.
- 82198 Sept. 18—Approving relocation of the Great Northern Railway Company station at Keremeos, British Columbia.
- 82199 Sept. 18—Approving proposed location of storage tanks, etc., near the tracks of the Chesapeake and Ohio Railway Company at Rodney, Ontario.
- 82200 Sept. 21—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Foam Lake Saskatchewan.
- 82201 Sept. 21—Permitting the removal of slow order at the C.N.R. crossing at Metropolitan Boulevard (Route No. 2) Turcot West, Montreal West, P.Q.
- 82202 Sept. 21—Permitting the removal of slow order at C.N.R. crossing of Dufferin Street, Toronto, Ontario.
- 82203 Sept. 21—Permitting the removal of slow order near station at Canora, Saskatchewan.
- 82204 Sept. 21—Approving location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Jansen, Saskatchewan.
- 82205 Sept. 21—Requiring the C.P.R. to install protection at first public crossing west of station at Appin, Ontario.
- 82206 Sept. 21—Approving less than standard clearances at the siding serving Canada Packers Limited in Truro Yard, Truro, N.S.
- 82207 Sept. 21—Approving less than standard clearances between a private siding and an adjacent shed owned by J. G. Parker & Son in Truro Yard, Truro, N.S. (C.P.R.)
- 82208 Sept. 21—In the matter of approval of plan submitted to the C.N.R. by the McKinnon Industries Limited showing location of storage tanks, etc., for storage of liquefied petroleum gases at St. Catharines, Ontario.

- 82209 Sept. 21—Approving traffic agreement between the Bell Telephone Company and the Bethesda and Stouffville Telephone Company Limited.
- 82210 Sept. 21—Authorizing the New Brunswick Department of Public Works to construct the highway across the C.N.R. at Torryburn, N.B.
- 82211 Sept. 22—Approving plans showing details of the overhead bridge to be erected by the Department of Highways of the Province of Ontario, at mileage 10-87, Galt Subdivision.
- 82212 Sept. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near tracks of the C.N.R. at Manville, Alberta.
- 82213 Sept. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the tracks of the C.P.R. at Balcarres, Saskatchewan.
- 82214 Sept. 22—Authorizing the C.N.R. to use the bridge across the Towachiche River, Province of Quebec.
- 82215 Sept. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Raymore, Saskatchewan.
- 82216 Sept. 22—Approving supplement to Service Station Contract, between the Bell Telephone Company and the Petawawa Rural Telephone Company Limited.
- 82217 Sept. 22—Authorizing the Imperial Oil Limited to construct a production flow line under the company pipe line of the Interprovincial Pipe Line Company in the SE $\frac{1}{4}$ -36-49-22 W4M, Province of Manitoba.
- 82218 Sept. 22—Requiring the C.P.R. to install protection at the crossing of its railway and the Midland Railway Company of Manitoba at Corydon Avenue, Winnipeg, Manitoba.
- 82219 Sept. 22—Requiring the C.P.R. to install protection at crossing of Horne Avenue at Mission, British Columbia.
- 82220 Sept. 22—Permitting the removal of slow order at C.P.R. crossing of Dundas Street at Islington, Ontario.
- 82221 Sept. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Senneterre, P.Q.
- 82222 Sept. 22—In the matter of the application of the Canadian Freight Association for approval of supplement No. 13 to Agreed Charge Tariff C.T.C. (AC) No. 14.
- 82223 Sept. 22—Authorizing Imperial Oil Limited to construct a protection flow line under the pipe line of the Interprovincial Pipe Line Company in the S.E. quarter of Section 29-49-21 W4M, Alberta.
- 82224 Sept. 22—In the matter of the application of the C.P.R. for approval of part signal location profiles showing the crossover east of Schreiber Station, Ontario.
- 82225 Sept. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Three Hills, Alberta.
- 82226 Sept. 22—Requiring the C.N.R. to install protection at crossing of Highway No. 1 in the Village of Portage, P.E.I.
- 82227 Sept. 23—Approving Traffic Agreements between the Bell Telephone Company and La Corporation de Téléphone de Québec.
- 82228 Sept. 23—Approving supplement to traffic agreement between the Bell Telephone Company and La Compagnie de Téléphone Rurale de St. Germain de Grantham.
- 82229 Sept. 23—Authorizing the Municipality of Charette, P.Q., to construct a highway across the C.N.R. at mileage 39-47 Grand'Mere Subdivision.
- 82230 Sept. 23—Approving proposed location of storage tanks, etc., of C.N.R. near their tracks at Charlottetown, P.E.I.
- 82231 Sept. 23—In the matter of application of British Columbia Telephone Company for Order approving and recommending to the Governor in Council for sanction an agreement between Kootenay Telephone Company Limited as vendor and the Applicant as purchaser of the physical assets of the vendor.
- 82232 Sept. 23—In the matter of application of British Columbia Telephone Company for Order approving and recommending to the Governor in Council for sanction an agreement between Kootenay Telephone Company Limited as vendor and the Applicant as purchaser of the physical assets of the vendor.
- 82233 Sept. 24—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Dominion Atlantic Railway Company under Section 9.
- 82234 Sept. 24—Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Cartier Subdivision, Ontario.
- 82235 Sept. 24—Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Thessalon Subdivision, Ontario.
- 82236 Sept. 24—Relieving the C.P.R. from erecting right of way fencing between certain mileages on its Webbwood Subdivision, Ontario.
- 82237 Sept. 24—Permitting the removal of slow order at the crossing of the London and Port Stanley Railway and Concession 13 at Stop 11, north of the City of St. Thomas, Ontario.

The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, November 1, 1953

No. 15

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 82303

In the matter of the application of Mrs. G. M. C. Haskell and Miss H. A. Moore for an Order varying Order No. 75552, dated November 13, 1950, which directed the Canadian Pacific Railway Company to construct and maintain a retaining wall on their property at Gordon Creek, near Yale, British Columbia, mileage 28.3 Cascade Subdivision:

File No. 15645

TUESDAY, the 6th day of October, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the matter at a sittings of the Board at Yale, British Columbia, on October 5, 1951, and upon consideration of the submissions on file and upon consent of the parties—

It is ordered

1. That the said application be, and it is hereby, dismissed.
2. That Order No. 75552, dated November 13, 1950, be, and it is hereby, rescinded.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82325

In the matter of the application of Canadian Petrofina Limited, of Montreal, Province of Quebec, for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 14 as approved by the Board:

File No. 40994-16

THURSDAY, the 8th day of October, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the Canadian Petrofina Limited has made application under sub-section 6 of section 35 of The Transport Act, 1938, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products in tank cars from and to stations and/or places as set out in Agreed Charge tariff C.T.C. (AC) No. 14, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be, and they are hereby, fixed, the same as agreed charges published in Agreed Charge tariff C.T.C. (AC) No. 14 for the transport, by the railway companies parties thereto, of petroleum products in tank cars, as described in paragraph B of the said tariff, shipped by Canadian Petrofina Limited from stations and/or places named in paragraph C(1), to stations and/or places as set out in paragraph C(2) of the said tariff, subject to and upon the terms and conditions contained in the said tariffs; and that the charges so fixed shall come into operation on the date of this Order.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 82339

In the matter of the General Freight Rates Investigation directed by Order-in-Council P.C. 1487 dated April 7, 1948 (Equalization Case).

File No. 45464

FRIDAY, the 9th day of October, A.D. 1953.

Hon. Mr. Justice J. D. KEARNEY, *Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

O. A. MATTHEWS, *Commissioner.*

Pursuant to the powers conferred upon the Board by the Railway Act and what was stated in the interim Judgment delivered orally at Ottawa on October 5, 1953; and notwithstanding the provisions of any prior Order of the Board:
It is Ordered that:

1. The railway companies subject to the jurisdiction of the Board shall establish class rates governed by the ratings in Canadian Freight Classification (other than competitive class rates) within the territory Port Arthur and Armstrong, Ontario, and West thereof, not exceeding 95 per cent of the class rates at present applicable within the said territory;

2. The railway companies subject to the jurisdiction of the Board may at the discretion of the said railway companies, increase the class rates at present in effect within the territory East of Port Arthur and Armstrong, Ontario, to and including Levis, Diamond and Boundary in the province of Quebec, by not more than ten per cent;

3. Fractions of rates resulting from the provisions of this Order shall be disposed of as follows:

Fractions less than .5 drop;

Fractions .5 and over, make next whole cent.

4. The reductions required herein shall take effect in amended tariffs on the 15th day of November, 1953, and the increases authorized may be made effective not earlier than the 15th day of November, 1953, on not less than three days' notice;

5. For the purposes of clarification this Order is not applicable to rates between stations in the territory specified in paragraph No. 1 hereof and stations in the territory specified in paragraph No. 2 hereof; nor applicable to rates within, from, or to "select territory" as defined in the Maritime Freight Rates Act; nor to commodity rates now in effect which are given a class rating differing from that applicable in the Canadian Freight Classification.

6. The provisions of the Board's tariff Circular No. 1 are waived as to notice, volume of supplemental matter, form of tariff and supplements.

7. The effective date of the tariffs required to be published under the provisions of Order No. 80410, dated the 12th day of December, 1952, is hereby postponed until January 1, 1955.

JOHN D. KEARNEY,
Chief Commissioner.

ORDER No. 82358

In the matter of the application of N. M. Paterson & Sons Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act, 1938:

File No. 42076-11

WEDNESDAY, the 14th day of October, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 277 be issued to the Applicant for a period of one year terminating on January 15, 1954, licensing the following ship:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Mondoc</i>	160713	1778-7

to transport goods by water between all ports and places in Canada on lakes Ontario, Erie, Huron, (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82238 Sept. 24—In the matter of the application of the C.N.R. for an Order amending Order No. 81894, dated July 29, 1953, which authorized removal of the statutory speed limitation at the crossing of their railway and the highway, being the second crossing south of the station at Bramley, Ontario.
- 82239 Sept. 24—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian National Railways under Section 3.
- 82240 Sept. 24—Permitting the removal of slow order at C.N.R. crossing and 50th Street near 127th Avenue, adjacent to the City of Edmonton, Alberta.
- 82241 Sept. 24—Approving abandonment of operation of The Vancouver, Fraser Valley and Southern Railway Company's Line and British Columbia Electric Railway Company, Limited Line on Commercial Drive in the City of Vancouver, B.C., to its terminus at Sapperton in the City of New Westminster, B.C.
- 82242 Sept. 25—Approving under Maritime Freight Rates Act tolls published in tariffs to supplements filed by the C.N.R. under Sections 3 and 9 of the Maritime Freight Rates Act.
- 82243 Sept. 25—Permitting the removal of slow order at the C.P.R. crossing of the Bessett Crossing at mileage 2-07 Thompson Subdivision.
- 82244 Sept. 25—Authorizing the C.N.R. and Central Vermont Railway Company to discontinue certain passenger trains between the Canadian-United States border and St. Johns, Quebec, and between St. Johns and Montreal, Quebec.
- 82245 Sept. 25—In the matter of application of the City of Hamilton, for an Order directing the Toronto, Hamilton & Buffalo Railway Company to construct a subway under its Welland Subdivision at Kenilworth Avenue South, Hamilton, Ontario. And in the matter of apportionment of the cost of works ordered by Order No. 80152, dated November 10, 1952.
- 82246 Sept. 25—Permitting the removal of slow order of the C.N.R. crossing south of Brucefield, Ontario.
- 82247 Sept. 25—Authorizing the C.N.R. to construct a trackage across Searth Street and re-aligned trackage and a spur to serve Simpson-Sears Limited across Hamilton Street, in the City of Regina, Saskatchewan.
- 82248 Sept. 25—Authorizing the Village of Midale, Sask., to construct a public pedestrian crossing over the C.P.R.
- 82249 Sept. 25—Authorizing the Township of Sandwich East, Ontario, to construct Jefferson Boulevard across the C.N.R. in the Town of Riverside, Ontario.
- 82250 Sept. 25—Restricting the speed of trains of the Chesapeake and Ohio Railway Company at crossing of Sunset Drive, St. Thomas, Ontario.
- 82251 Sept. 25—Authorizing the C.N.R. to construct a siding over the Trans Mountain Oil Pipe Line Company at the refinery of Royalite Products Limited, B.C.
- 82252 Sept. 25—In the matter of approval of plan submitted to the C.N.R. by Lubrizol of Canada Limited showing the proposed location of pipe line, etc., for the handling and storage of inflammable liquids Class II at Niagara Falls, Ont.
- 82253 Sept. 25—Authorizing the Bell Telephone Company of Canada, to construct telephone lines along a highway in the Township of Chatham, Ontario.
- 82254 Sept. 25—Authorizing the C.P.R. to reconstruct its bridge across the Chase River at mileage 1-02 of its Stockett Junction to Welleox Branch Line, near Nanaimo, British Columbia.
- 82255 Sept. 28—Approving proposed location of pumps, etc., of the Imperial Oil Limited, near the C.P.R. tracks at Rose Valley, Saskatchewan.
- 82256 Sept. 28—Approving proposed location of pumps, etc., of the British American Oil Company Limited near the C.N.R. tracks at Bengough, Saskatchewan.
- 82257 Sept. 28—Approving proposed location of Imperial Oil Limited tanks, etc., near C.P.R. tracks at Torquay, Saskatchewan.
- 82258 Sept. 28—Approving under Maritime Freight Rates Act tolls filed by the Dominion Atlantic Railway Company under Section 9.
- 82259 Sept. 28—Authorizing the Corporation of the Village of Ste. Marie de Beauce, P.Q., to construct St. Jean Avenue across the Quebec Central Railway in the Village of Ste. Marie, P.Q.
- 82260 Sept. 28—Exempting the New York Central Railroad from the application of General Order No. 785 and authorizing it to use its present flagging rules.
- 82261 Sept. 29—In the matter of application of the C.N.R. for approval of plan showing details of the wig wag signals at the crossing of their railway and Edinburgh Road, Guelph, Ontario.
- 82262 Sept. 30—Authorizing the New York Central Railroad to make changes to the interlocking at the crossing of the C.N.R. at Welland, Ont.
- 82263 Sept. 30—Permitting the removal of slow order at C.P.R. crossing, east of MacGregor, Manitoba.

- 82264 Sept. 30—Permitting the removal of slow order at C.P.R. crossing at mileage 2 Indian Head Subdivision, Saskatchewan.
- 82265 Sept. 30—Restricting the speed of trains of the Grand River Railway Company at crossing of Sidney Street, Kitchener, Ontario.
- 82266 Sept. 30—Restricting the speed of trains of the Grand River Railway Company at crossing of Madison Avenue, Kitchener, Ontario.
- 82267 Sept. 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Viceroy, Saskatchewan.
- 82268 Sept. 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Stonewall, Manitoba.
- 82269 Sept. 30—Authorizing the Quebec Department of Roads to widen Route 55 where it crosses the C.N.R. in the Township of Normandin, County of Roberval, Quebec.
- 82270 Sept. 30—Authorizing the Alberta Department of Highways to widen its highway across the C.P.R. at mileage 3.3 Irricana Subdivision, between the SE quarter of Section 6-22-18-W4M and NW quarter of Section 31-21-18-W4M, Alberta.
- 82271 Sept. 30—Permitting the removal of slow order at C.N.R. crossing of Sherman Avenue North, Hamilton, Ontario.
- 82272 Oct. 1—Authorizing the C.N.R. to remove the agent and appoint a caretaker at Denmark, Nova Scotia.
- 82273 Oct. 1—Authorizing Mr. R. W. Clearwaters to construct a roadway over the company pipe line of the Trans Mountain Oil Pipe Line Company, Kamloops Division, Yale District, at Kamloops, British Columbia.
- 82274 Oct. 1—Authorizing the Algoma Central and Hudson Bay Railway Company to discontinue using its station at Steelton, Sault Ste. Marie, Ontario.
- 82275 Oct. 1—Authorizing the C.P.R. to make changes to the signals at the interlocking at the crossing of the C.N.R. at Cornwall, Ontario.
- 82276 Oct. 1—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Wadena, Saskatchewan.
- 82277 Oct. 1—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the Northern Alberta Railways Company tracks at High Prairie, Alberta.
- 82278 Oct. 1—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Calmar, Alberta.
- 82279 Oct. 1—Permitting the removal of slow order at C.P.R. crossing of Wilson Avenue, near Weston, Ontario.
- 82280 Oct. 1—Permitting the removal of speed restrictions at C.N.R. crossing of Main Street, Alexandria, Ontario.
- 82281 Oct. 1—Restricting the speed of trains of the C.N.R. at crossing of Tupper Street, Portage la Prairie, Manitoba.
- 82282 Oct. 1—Permitting the removal of slow order at C.N.R. crossing of Highway No. 12, east of station at Ste. Anne, Manitoba.
- 82283 Oct. 1—Permitting the removal of slow order at C.P.R. crossing near station at Fleming, Saskatchewan.
- 82284 Oct. 1—Permitting the removal of slow order at C.N.R. crossing, west of the shelter at Dacotah, Manitoba.
- 82285 Oct. 1—Permitting the removal of slow order at C.N.R. crossing, first public crossing north of Concord, Ontario.
- 82286 Oct. 1—Authorizing the C.N.R. to remove the agent and appoint a caretaker at Otthon, Saskatchewan.
- 82287 Oct. 1—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Dolbeau, Quebec.
- 82288 Oct. 2—Permitting the removal of slow order at C.P.R. crossing of 9th Avenue, near station at Blairmore, Alberta.
- 82289 Oct. 5—Exempting the New York Central Railroad Company from the provisions of General Order No. 785 and authorizing it to use its present flagging rules in respect to the operation of its St. Lawrence, Ottawa and Adirondack Divisions.
- 82290 Oct. 5—Approving Supplement to Service Station Contract between The Bell Telephone Company of Canada and The Commissioners for the Telephone System of the Municipality of the Township of Tilbury East.
- 82291 Oct. 5—Permitting the removal of slow order at Montreal and Southern Counties Railway (C.N.R.) crossing of Devonshire Road and Churchill Boulevard, Greenfield Park, Quebec.
- 82292 Oct. 5—Extending the time within which protection is to be installed by the C.P.R. at the crossing of the Trans-Canada Highway in the Province of Alberta at mileage 6.0 Langdon Subdivision.
- 82293 Oct. 5—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.

- 82294 Oct. 6—Relieving the C.N.R. from erecting fencing at certain mileages on their Togo Subdivision, Manitoba.
- 82295 Oct. 6—Authorizing the C.P.R. to construct a branch line of railway (industrial spur) in the City of Oshawa, Ontario.
- 82296 Oct. 6—Authorizing the Quebec Department of Roads to widen Highway No. 32 where it crosses the C.N.R. at Actonvale, Quebec.
- 82297 Oct. 6—Approving proposed location of storage tanks, etc., of Supertest Petroleum Corp. Limited, near the Quebec Central Railway tracks at Beauceville, Quebec.
- 82298 Oct. 6—Extending the time limit within which the C.N.R. were authorized by Orders Nos. 80514 and 81906, to take possession of tracks and facilities of National Harbours Board, Great Northern Railway Company, C.P.R., The Burrard Inlet Tunnel and Bridge Company, and the Pacific Great Eastern Railway Company.
- 82299 Oct. 6—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Northern Telephone Company Limited.
- 82300 Oct. 6—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Madawaska Telephone Association Limited.
- 82301 Oct. 6—Authorizing the Ontario Department of Highways to construct two temporary highway crossings over the C.P.R. at mileage 10·87 Galt Subdivision.
- 82302 Oct. 6—Restricting the speed of trains at C.N.R. crossing of Highway No. 6, Watson, Saskatchewan.
- 82303 Oct. 6—Dismissing the application of Mrs. G. M. C. Haskell and Miss H. A. Moore in regard to retaining a wall on their property at Gordon Creek, near Yale, British Columbia.
- 82304 Oct. 6—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under Sections 3 and 9.
- 82305 Oct. 7—Authorizing Frank M. MacPherson, Commissioner, to report to the Board upon questions and matters arising in connection with application of the City of Edmonton for a re-hearing of the application of the C.P.R. in connection with three additional crossings at 113th, 114th and 115th Streets and certain lanes, in the City of Edmonton, Alberta.
- 82306 Oct. 7—Authorizing Frank M. MacPherson, Commissioner, to report upon questions and matters with respect to application of the City of Brandon for an Order directing the relocation of the transfer track of the C.P.R. from the west to the east end of the City and apportioning the cost of the relocation.
- 82307 Oct. 7—Relieving the C.P.R. from erecting cattleguards at certain crossings in the Province of Alberta on its Two Hills industrial spur.
- 82308 Oct. 7—Approving operation of C.N.R. trains over a private industrial siding serving the R.C.A. Victor Company Limited at mileage 6·78 Newmarket Subdivision, Ontario.
- 82309 Oct. 7—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Freight Association under Sections 3 and 9.
- 82310 Oct. 7—Relieving the C.P.R. from erecting cattleguards at certain highway crossings on its Reford Subdivision, Saskatchewan.
- 82311 Oct. 7—Authorizing the Imperial Oil Limited to construct a flow line under the company pipe line of the Interprovincial Pipe Line Company in the North-east quarter of Section 36-49-22-W4M, Alberta.
- 82312 Oct. 7—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 82313 Oct. 7—Approving plan filed by the C.N.R. showing protection as installed at the first crossing north of the station at Utterson, Ontario.
- 82314 Oct. 8—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Rochester, Alberta.
- 82315 Oct. 8—Approving revised plan showing changes in the protection at the crossing of the railway of the C.P.R. and Highway No. 2 at mileage 102·55 Shogomoc Subdivision, New Brunswick.
- 82316 Oct. 8—Permitting the removal of slow order at C.P.R. crossing and Lesperance Road, near Elmstead, Ontario.
- 82317 Oct. 8—Permitting the removal of slow order at C.N.R. crossing and Pillette Road, Windsor, Ontario.
- 82318 Oct. 8—In the matter of application of the Department of Highways of the Province of Saskatchewan for approval of plan showing alterations to relocated Highway No. 6 across the C.P.R. at mileage 4·2 Lanigan Subdivision.
- 82319 Oct. 8—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs by the Canadian Freight Association under Sections 3 and 9.
- 82320 Oct. 8—Permitting the removal of slow order at C.N.R. crossing west of the west switch at Birch Hills, Saskatchewan.

- 82321 Oct. 8—Relieving the C.N.R. from erecting fencing between mileages 42.5 and 42.6 North Side, Camrose Subdivision, Alberta.
- 82322 Oct. 8—Approving operation of C.N.R. trains over private siding to serve Automatic Electric (Canada) Limited, Brockville, Ontario.
- 82323 Oct. 8—Approving under the Maritime Freight Rates Act tolls published in Supplement to tariffs filed by the Dominion Atlantic Railway Company under Section 8.
- 82324 Oct. 8—Authorizing the Victoria Lumber Company Limited, to remove the diamond crossing of its railway and the railway of the Esquimalt and Nanaimo Railway Company Chemainus District, Vancouver Island.
- 82325 Oct. 8—In the matter of the application of Canadian Petrofina Limited at Montreal, P.Q., for a fixed charge as same as Agreed Charge tariff C.T.C. (AC) No. 14 as approved by the Board.
- 82326 Oct. 8—Approving Appendix "A" to Traffic Agreement between the Bell Telephone Company of Canada and the La Corporation de Téléphone de Québec, (Western Division).
- 82327 Oct. 8—Restricting the speed of train at the crossing of the C.N.R. and 112th Avenue east of the intersection of 84th Street in the City of Edmonton, Alberta.
- 82328 Oct. 8—Authorizing the C.N.R. to make changes in the track circuits of the wig wag at the crossing and of the highway near station at Norton, New Brunswick.
- 82329 Oct. 8—In the matter of application of C.N.R. for an Order amending Order No. 80830, dated February 14, 1953, which authorized the installation of protection at the crossing of Arran Street and the C.N.R., Campbellton, New Brunswick.
- 82330 Oct. 9—Permitting the removal of slow order at C.N.R. crossing and Highway No. 2, Cobourg, Ontario.
- 82331 Oct. 9—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. track at Kamsack, Saskatchewan.
- 82332 Oct. 9—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. tracks at Vonda, Saskatchewan.
- 82333 Oct. 9—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near CNR tracks at Eatonia, Saskatchewan.
- 82334 Oct. 9—Permitting the removal of slow order at the crossing of the highway and the Dominion Atlantic Railway, known as Hennessey's Crossing at mileage 55.12 Truro Subdivision, Nova Scotia.
- 82335 Oct. 9—Relieving the C.P.R. from erecting right of way fencing between mileage 8.97 and 11.03 South Side, Belleville Subdivision, Ontario.
- 82336 Oct. 9—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Kelfield Subdivision.
- 82337 Oct. 9—Authorizing the C.N.R. to operate the bridge at Bulkley Subdivision, British Columbia.
- 82338 Oct. 9—Authorizing the Northern Alberta Railways Company to use the bridge at mileage 205.9 Slave Lake Subdivision, Alberta.
- 82339 Oct. 9—In the matter of General Freight Rates Investigation directed by Order-in-Council P.C. 1487, dated April 7, 1948 (Equalization Case).
- 82340 Oct. 9—Approving relocation of Quebec, North Shore and Labrador Railway Company's line of railway from mileage 120 to mileage 220 in unsurveyed territory in the Province of Quebec.
- 82341 Oct. 9—Authorizing the C.N.R. to operate the bridge at mileage 39.4 Telkwa Subdivision, British Columbia.
- 82342 Oct. 9—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on Wilkie Subdivision, Saskatchewan.
- 82343 Oct. 9—Authorizing the Northern Alberta Railways Company to operate the bridge at mileage 181.2 Slave Lake Subdivision, Alberta.
- 82344 Oct. 9—Authorizing the C.N.R. to operate the bridges at mileage 96.1 and mileage 98.1, Skeena Subdivision, British Columbia.
- 82345 Oct. 9—Requiring the C.N.R. to install and maintain protection in each approach traffic lane crossing Corydon Avenue, Winnipeg, Manitoba.
- 82346 Oct. 9—Approving proposed location of storage tanks, etc., of Imperial Oil Limited at Hanna, Alberta.
- 82347 Oct. 14—Restricting the speed of trains at the crossing of the railway at the Vancouver and Lulu Island Railway Company and 17th Avenue, Vancouver, B.C.
- 82348 Oct. 14—Permitting the removal of slow order at C.N.R. crossing at Highway No. 22 east of station, Lenoxxville, P.Q.
- 82349 Oct. 14—Permitting the removal of slow order at C.P.R. crossing at mileage 9.3 Brooks Subdivision, Alberta.
- 82350 Oct. 14—In the matter of Order No. 78180, dated January 28, 1952 as amended by Order No. 81939, dated August 7, 1953.

- 82351 Oct. 14—Authorizing the Haldimand Quarries and Construction Limited to construct a tunnel under the New York Central Railroad Company east of Hagersville, Ontario.
- 82352 Oct. 14—Restricting the speed trains at the crossing of St. Henri, Hull, P.Q.
- 82353 Oct. 14—Approving under the Maritime Freight Rates Act tolls published in Supplement to tariffs filed by the Dominion Atlantic Railway Company under Section 8.
- 82354 Oct. 14—Authorizing the Texaco Exploration Company to construct a crude oil pipe line over the pipe line of the Trans Mountain Oil Pipe Line Company in the Northwest quarter of Section 19-52-23 W4M, Alberta.
- 82355 Oct. 14—Authorizing the New Superior Oils of Canada Limited to construct a pipe for the transportation of salt water across the right of way of the Inter-provincial Pipe Line Company in the Province of Alberta.
- 82356 Oct. 14—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Dominion Atlantic Railway Company under Section 8.
- 82357 Oct. 14—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Carseland, Alberta.
- 82358 Oct. 14—In the matter of the application of N. M. Patterson & Sons Limited for a licence under Section 10 of the Transport Act, 1938.
- 82359 Oct. 14—Requiring the C.N.R. to install protection at crossing of Prince Street, Sorel, P.Q.
- 82360 Oct. 15—In the matter of application of the Township of North York and the Township of York, Ontario, for an Order authorizing extension of Caledonia Road across the C.N.R. spur serving the Acme Screw & Gear Company Limited, etc.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

November 15, 1953

No. 16

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 82411

In the matter of the application of Canadian Freight Association under Sections 325 and 365 of the Railway Act, for approval of proposed Supplement No. 35 to Canadian Freight Classification No. 19, on file with the Board under file No. 33365-158:

WEDNESDAY, the 21st day of October, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas notice has been given by the Canadian Freight Association in *The Canada Gazette*, as required by sections 325 and 365 of the Railway Act, and copies of the said Supplement have been furnished to the parties named in the General Order of the Board No. 695, with the request that their objections, if any, be filed with the Board within thirty days; no one offering any objection;

And upon reading the submissions filed—

It is ordered that the said Supplement No. 35 to Canadian Freight Classification No. 19, on file with the Board under file No. 33365-158, be, and it is hereby, approved.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82412

In the matter of the application of the Canadian Freight Association, dated September 15, 1953, under the provisions of Part V of The Transport Act, 1938, for approval of an agreed charge:

File No. 40994-25

WEDNESDAY, the 21st day of October, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed, notice of the application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections filed—

It is ordered that the agreed charge between the Canadian National Railways, Canadian Pacific Railway Company and Canadian Oil Companies, Limited, Champlain Oil Products, Limited, Imperial Oil Limited and Sun Oil Company, Limited, on petroleum products from Hochelaga, Que., Montreal East, Que., and Montreal (Moreau Street), Que., to Hull, Que., and Ottawa, Ont., on file with the Board under file No. 40994-25, be, and it is hereby, approved; and that the date from which the said agreed charge shall become operative is hereby fixed as the 4th day of October, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82447

In the matter of the application of the Canadian Freight Association, dated September 16, 1953, under the provisions of Part V of the Transport Act, 1938, for approval of an agreed charge:

File No. 40994-49

WEDNESDAY, the 28th day of October, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that the agreed charge between the Canadian National Railway Company, Canadian Pacific Railway Company, Central Vermont Railway, Inc., Chesapeake and Ohio Railway Company (Pere Marquette District), The Essex Terminal Railway Company, The Grand River Railway Company, The Lake Erie and Northern Railway Company, The London and Port Stanley Railway (Operated by the London Railway Commission for the City of London), Napierville Junction Railway Company, The New York Central Railroad Company, Quebec Central Railway Company, The Thousand Islands Railway Company, The Toronto, Hamilton and Buffalo Railway Company, Wabash Railroad Company and The British American Oil Company, Limited, Canadian Oil Companies, Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited, and Shell Oil Company of Canada, Limited, on liquefied petroleum gas from Montreal, P.Q., Sarnia, Ontario and Clarkson's, Ontario, to stations and/or places in the Provinces of Ontario and Quebec, on file with the Board under file No. 40994-49, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 17th day of September, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT, BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,

SEPTEMBER, 1953

Railway Accidents	262	Killed	15	Injured	309
Highway Crossing Accidents	36	Killed	13	Injured	51
Total.....	298	Killed	28	Injured	360
		<i>Killed</i>		<i>Injured</i>	
Passengers		1		68	
Employees		4		224	
Others		23		68	
Total.....		28		360	

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

NEW BRUNSWICK

- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Maine H-1577.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.B. 11-397.

QUEBEC

- 1 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.J. EH-5588.
- 1 Tractor pulling Road Grader drove onto crossing in front of approaching train and was struck. Licence: Que. G-3834.
- 2 Automobile ran into side of train. Licence: Que. 190888.

ONTARIO

- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. H-634.
- 1 Automobile ran into side of train. Licence: Ont. 5569-J.
- 1 — Automobile ran into side of train. Licence: Ont. V-2344.
- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. HB-30.
- 5 Automobile ran into rear of stopped automobile pushing it into side of train.
Licence: Ont. 65-C-95.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 848-C-4.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-64568.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 8-L-744.
- 1 Automobile ran into side of train. Licence: Ont. 3-E-366.
- 1 — Farm tractor drove onto crossing in front of approaching train and was struck.
- 1 Automobile ran into side of train. Licence: Ont. LK-402.
- 1 6 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Mich GA-2934.
- 2 Automobile stalled on crossing and was struck by train. Licence: Ont. K-7815.

MANITOBA

- 4 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Man. 3164.
- 1 — Automobile stopped on crossing and was struck by train. Licence:
Man. 7-F-946.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Man. 40170.
- 1 — Pedestrian walked onto crossing in front of approaching train and was struck.

SASKATCHEWAN

- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Sask. 157-692.
- 1 Pedestrian leading cow over crossing was struck by train.
- 1 Automobile ran into side of train. Licence: Sask. 22030.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Sask. 85963.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. D3-249.
- 1 Automobile ran into side of track motor car. Licence: Sask. 111-935.
- 3 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. F-34-461.

ALBERTA

- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. C-51203.
- 1 1 Auto truck ran into side of train. Licence not given.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 91-W-80.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. E-23251.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 97-M-24.

BRITISH COLUMBIA

- 1 Pedestrian walked onto crossing in front of approaching train and was struck.
- 2 Auto truck ran into side of train. Licence not given.

Of the 36 accidents at highway crossings, 29 occurred at unprotected crossings, and 7 at protected crossings. Twenty-three occurred after sunrise and thirteen after sunset.
OTTAWA, Ont., November 4, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82361 Oct. 15—Authorizing the Trans Mountain Oil Pipe Line Company to open, for the transportation of crude oil, a section of its company pipe line from Edmonton, Alta., to Vancouver, B.C.
- 82362 Oct. 15—In the matter of the application of The Express Traffic Association of Canada for approval of proposed Supplement No. 5 to Express Classification for Canada No. 9.
- 82363 Oct. 16—Approving operation of C.N.R. trains over a private industrial siding serving the Department of National Defence (R.C.A.F.) at Clinton, Ont.
- 82364 Oct. 16—Restricting the speed of trains at crossing of Provincial Highway No. 21 and the C.N.R. near station at Allenford, Ont.
- 82365 Oct. 16—Authorizing the C.N.R. to operate the bridge at mileage 14·8 Nechako Subdivision, British Columbia.
- 82366 Oct. 16—Authorizing the C.N.R. to use and operate the bridge at mileage 21·4 Bulkley Subdivision, British Columbia.
- 82367 Oct. 16—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Brunkild, Man.
- 82368 Oct. 16—Authorizing the C.N.R. to use and operate the bridge at mileage 51·1 Nechako Subdivision, British Columbia.
- 82369 Oct. 16—In the matter of protection at crossing of Highway No. 7 and the C.N.R., mileage 32·22 Fergus Subdivision, Ontario.
- 82370 Oct. 16—Authorizing the C.N.R. to use and operate the bridge at mileage 8·3 Bulkley Subdivision, British Columbia.
- 82371 Oct. 16—Approving proposed location of storage tank, etc., of C.P.R., near its tracks at Kaslo, B.C.
- 82372 Oct. 16—Approving proposed location of pipe lines of Imperial Oil Limited, near the C.N.R. tracks at St. John, N.B.
- 82373 Oct. 16—Permitting the removal of slow order at C.N.R. crossing of Highway No. 15 at mileage 168·42 Gananoque Subdivision, Ontario.
- 82374 Oct. 16—In the matter of the application of the C.N.R. for approval of revised Plan showing protection to be installed at the crossing of Arthur Street and Provincial Highway No. 87 at Harriston, Ont.
- 82375 Oct. 16—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Anerley, Sask.
- 82376 Oct. 19—In the matter of the application of the Quebec Department of Roads for an order authorizing the installation of protection at crossing of Highway No. 25A and the C.N.R. at St. Damien, Que.
- 82377 Oct. 19—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Victoriaville, Que.
- 82378 Oct. 19—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Gibbons, Alta.
- 82379 Oct. 19—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the Northern Alberta Railways Company tracks at Spirit River, Alta.
- 82380 Oct. 19—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the Canadian Pacific Railway Company under Sections 3 and 9.
- 82381 Oct. 19—Authorizing the C.P.R. to install protection at crossing of the highway near Eady, Ont.
- 82382 Oct. 19—In the matter of the application of the City of Prince Albert, Sask., for an order authorizing the installation of automatic protection at crossing of Second Avenue West near 17th Street and C.N.R., in the City of Prince Albert, Saskatchewan.
- 82383 Oct. 19—Authorizing the Alberta Department of Highways to widen its highway where it crosses the C.P.R. at mileage 30·9 Macleod Subdivision, Alberta.
- 82384 Oct. 19—Restricting the speed of trains of the C.P.R. at crossing of 8th Street East, Calgary, Alta.
- 82385 Oct. 19—Approving Plan showing the signal changes to be made at the interlocker at the crossing of the C.N.R. and C.P.R. at Port Arthur, Ont.
- 82386 Oct. 19—Permitting the removal of slow order at C.N.R. crossing near Elia, Ont.
- 82387 Oct. 19—Authorizing the C.N.R. to make signal changes in the vicinity of mileage 20·0 Oakville Subdivision, between Toronto and Hamilton, Ontario.
- 82388 Oct. 19—Authorizing the C.N.R. to close as an agency their station at Prince, Sask., and appoint a caretaker.

- 82389 Oct. 19—Approving location of 4A station proposed to be erected by the C.N.R. at Porcupine Plain, Sask.
- 82390 Oct. 20—Authorizing The Bell Telephone Company to construct its lines of telephone, upon, along, across, over and under certain highways in the Township of Harwich, County of Kent, Ontario.
- 82391 Oct. 20—Authorizing The Bell Telephone Company to construct its lines of telephone along a certain highway in the Township of Harwich, County of Kent, Ontario.
- 82392 Oct. 20—Authorizing The Bell Telephone Co. to construct its lines of telephone across a certain highway in the Township of Harwich, County of Kent, Ontario.
- 82393 Oct. 20—Authorizing the C.N.R. to construct an industrial spur to serve the Town of Richmond across Seventh Avenue, Richmond, P.Q.
- 82394 Oct. 20—Authorizing the Village of Mendham, Sask., to construct Main Street across the C.P.R. in the said Village.
- 82395 Oct. 20—Authorizing the C.P.R. to operate under the highway bridge at mileage 2·11 Taber Subdivision, Alberta.
- 82396 Oct. 20—Permitting the removal of slow order at crossing of the railway of C.P.R. and Highway No. 5 at Boldt, Sask.
- 82397 Oct. 20—In the matter of application of C.N.R. and C.P.R., for authority to operate their trains over the siding of The Toronto Harbour Commissioners serving the Crystal Glass & Plastics Limited in the City of Toronto, Ontario.
- 82398 Oct. 20—Authorizing the C.P.R. to construct and operate a branch line of railway (wey track) from a point on its Willingdon Subdivision, at mileage 172·92 to a point on its Leduc Subdivision at mileage 95·28, in the Province of Alberta, etc.
- 82399 Oct. 21—In the matter of approval of Plan No. 5153, submitted to the C.P.R. by the Shell Oil Company, showing the location of crude oil loading at Midale, Saskatchewan.
- 82400 Oct. 21—Authorizing the Town of Beauceville East, Quebec, to construct Ste. Marie Street across the Quebec Central Railway Company in the said town.
- 82401 Oct. 21—Permitting the removal of slow order at C.P.R. crossing near the station at Papineauville, Quebec.
- 82402 Oct. 21—Restricting the speed of trains at C.N.R. crossing of Hunter Street, Hagersville Subdivision, Hamilton, Ontario.
- 82403 Oct. 21—Restricting the speed of trains at C.P.R. crossing in Megantic, Quebec.
- 82404 Oct. 21—In the matter of application of the Quebec North Shore and Labrador Railway Company for approval of signal profile showing the signals proposed to be installed between mileage 110 and mileage 220 in the Provinces of Quebec and Newfoundland.
- 82405 Oct. 21—Restricting the speed of C.P.R. trains at mileage 24·0 Estevan Subdivision, Manitoba.
- 82406 Oct. 21—Permitting the removal of slow order at C.N.R. crossing east of I.N.R. Junction at St. Leonard, N.B.
- 82407 Oct. 21—Authorizing the C.N.R. to make changes to certain signals as shown on Plan No. SD-243A, revised to August 25, 1953.
- 82408 Oct. 21—Permitting the removal of slow order at C.N.R. crossing at South Durham, Quebec.
- 82409 Oct. 21—Authorizing the C.P.R. to operate under the overhead bridge at mileage 7·37 Mission Subdivision, British Columbia.
- 82410 Oct. 21—In the matter of consideration of further protection at the crossing of Cascades Street and the C.N.R., in the City of St. Hyacinthe, Quebec, and Order No. 82162, dated September 14, 1953.
- 82411 Oct. 21—In the matter of application of the Canadian Freight Association for approval of proposed Supplement No. 35 to Canadian Freight Classification No. 19.
- 82412 Oct. 21—In the matter of application of the Canadian Freight Association, under the provisions of Part V of The Transport Act, 1938, for approval of an agreed charge.
- 82413 Oct. 21—Authorizing the Town of Watson, Sask., to improve the sight lines at C.P.R. crossing at Highways Nos. 5 and 6.
- 82414 Oct. 21—In the matter of application of the New Brunswick Department of Public Works, for the installation of additional protection at the crossing of Provincial Highway No. 10 and the C.N.R. near Hardwood Ridge, N.B., and in the matter of Order No. 82149, dated September 11, 1953.

- 82415 Oct. 22—Approving proposed location of storage tank, etc., of Home Gas Limited near the tracks of the C.N.R. track at Moose Jaw, Saskatchewan.
- 82416 Oct. 22—Restricting the speed of the C.N.R. trains at crossing over the main track at Warman, in the Province of Saskatchewan.
- 82417 Oct. 22—Authorizing the C.N.R. to remove the agent at Sedalia, Alberta.
- 82418 Oct. 22—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Shellmouth, Manitoba.
- 82419 Oct. 22—Approving proposed location of loading facilities, etc., of Imperial Oil Limited, near C.N.R. tracks at Vancouver, B.C.
- 82420 Oct. 22—Permitting the removal of slow order on C.N.R. crossing south of the shelter at Hinchliffe, Saskatchewan.
- 82421 Oct. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.N.R. at Baldur, Manitoba.
- 82422 Oct. 22—Authorizing the C.N.R. to remove the flood lights at the crossing of the Provincial Highway No. 58 near Welland Junction, Ontario.
- 82423 Oct. 22—Requiring the C.P.R. to install protection at the crossing of the First Line East, Township of Toronto, Ontario.
- 82424 Oct. 23—Authorizing the C.N.R. to install block signals between mileage 25·0 and mileage 102·0, Kashabowie Subdivision.
- 82425 Oct. 23—Requiring the C.N.R. to install protection at crossing near Harriston, in the Province of Ontario.
- 82426 Oct. 23—Requiring the C.P.R. to install protection at crossing of its railway and the private road of the Trans Mountain Oil Pipe Line Company near Barnet, British Columbia.
- 82427 Oct. 26—In the matter of application of the Bell Telephone Company of Canada for approval of Supplements Nos. 1 and 2 and revised Appendix "A" dated October 5, 1953, to Traffic Agreement between the Applicant Company and the Long Lac Telephones Limited.
- 82428 Oct. 26—Authorizing the Canadian Northern Railway Company to construct a siding to serve Allan Lyons Limited across Centre Street in the City of Winnipeg, Manitoba.
- 82429 Oct. 26—Extending the time within which the C.N.R. is required to install protection at crossing of the Trans Canada Highway near Paddington, Manitoba.
- 82430 Oct. 26—Approving proposed location of storage tank, etc., of the Shell Oil Company of Canada Limited, near C.N.R. tracks at Sillery, Quebec.
- 82431 Oct. 26—Approving Supplement between the Bell Telephone Company of Canada and Armand C. Crepeau.
- 82432 Oct. 26—Authorizing the Texaco Exploration Company to construct a crude oil pipe line over the company pipe line of the Trans Mountain Oil Pipe Line Company near the east west quarter of Section 32-52-23-W4M, Alberta.
- 82433 Oct. 26—Permitting the removal of slow order at C.P.R. crossing at Ralph, Sask., mileage 93·4 Portal Subdivision.
- 82434 Oct. 26—Approving proposed location of storage tank, etc., of Sacco Oil Company Limited, near C.P.R. tracks at Mount Royal, Quebec.
- 82435 Oct. 26—Approving proposed location of storage tank, etc., of Mr. J. P. Morissette, near C.N.R. tracks at Ecureuils, Quebec.
- 82436 Oct. 26—Approving Supplements Nos. 3 and 4, etc., to Traffic Agreement, between the Bell Telephone Company of Canada and The Chapleau Telephone Company Limited.
- 82437 Oct. 26—Authorizing the Township of Woodhouse, Ontario, to remove the earth in the northeast and northwest angles of the crossing between lots 11 and 12, in the Gore of Woodhouse, south of the Town of Simcoe, Ontario.
- 82438 Oct. 26—In the matter of consideration of improved protection at the crossing of the C.N.R. and Front Street, in the Town of Orillia, Ontario.
- 82439 Oct. 27—Dismissing the application of the C.N.R. for authority to close the agency at Dummer, Saskatchewan.
- 82440 Oct. 27—Authorizing the Grand Trunk Pacific Railway Company to construct a spur to serve Western Vinegars Limited across 123rd Avenue, Edmonton, Alberta.
- 82441 Oct. 27—Permitting the removal of slow order at C.N.R. crossing near Uxbridge, Ont.
- 82442 Oct. 27—Permitting the removal of slow order at C.N.R. crossing near Fenelon Falls, Ontario.

- 82443 Oct. 28—In the matter of application of the C.P.R. for an Order approving a provision relieving the Canadian Pacific Railway Company and Northern Alberta Railways from all liability for loss or damage to equipment or cargo consigned by George W. Taber Trucking Co., Inc., to the said railways for movement on flatcars between Coutts, Alberta, and Dawson Creek, B.C.
- 82444 Oct. 28—In the matter of application of the Edmonton Pipe Line Company Limited, for leave to construct a crude oil pipe line across the company pipe line of the Interprovincial Pipe Line Company in Section 29-49-21-W4M, in the Province of Alberta.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

December 1, 1953

No. 17

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the City of Sorel, Province of Quebec, for the installation of automatic protection at the crossing of the line of the Canadian National Railways and King Street in the said City at mileage 44.49 Sorel Subdivision; and in the matter of the apportionment of the costs if such installation is ordered.

File No. 26782.292

and

In the matter of the application of the City of Sorel, Province of Quebec, for the installation of automatic protection at the crossing of the line of the Canadian National Railways and Prince Street in the said City at mileage 44.47 Sorel Subdivision; and in the matter of the apportionment of the costs if such installation is ordered.

File No. 26782.306

HEARD at Sorel, April 17, 1953.

Before:

A. SYLVESTRE, Q.C., Deputy Chief Commissioner.

H. B. CHASE, C.B.E., Commissioner.

Appearances:

LUCIEN CARDIN, M.P., for the City of Sorel.

G. M. COOPER and E. D. PINSONNAULT, for the Canadian National Railways.

JUDGMENT

SYLVESTRE, Deputy Chief Commissioner:

We have before us two applications from the City of Sorel requesting the installation of protection at the crossings of King and Prince Streets.

At the hearing, Counsel for the City declared that in the matter of protection, priority should be given to the Prince Street crossing, because it is the more dangerous of these two crossings; that is the reason we adjudicate only on the crossing located at the intersection of Prince Street, giving leave to the Applicant to renew its application when it wishes to have protection installed at the King Street crossing.

The population of Sorel is now 17,000 and traffic is dense at Prince Street. A traffic count at that point, taken on April 16, 1953, for a twenty-four hour period, indicated as follows:

In a north to south or south to north direction:

Automobiles	1,108
Trucks	369
Horse-drawn vehicles	22
Bicycles	705
Autobusses	11
Pedestrians	1,814
Freight Trains	30
Passenger Trains	5

The financial situation of the city is poor and this year's operation will end in a deficit. There are several very large and important establishments located at Sorel—and among them is Marine Industries Co. which employs several hundred men—but all these industries are located on the western side of the Richelieu River, outside of the city limits and not being part of the city they contribute nothing in taxes.

Is that a valid reason for ruling on the installation of protection on a street of the City of Sorel and in the apportioning of the cost thereof to place the whole expenditure on the Railway Company and charge nothing to the City? I do not think so.

The estimates filed show the cost of installation of this protection at \$6,200 and the maintenance cost as \$600.00 per year.

Therefore, in the interest of safety, I would direct that automatic protection of flashing lights and bells be installed at Prince Street; forty per cent to be paid out of the Railway Grade Crossing Fund—not exceeding the sum of \$2,480.00—and the balance to be divided equally, 50 per cent to be paid by each party and the cost of maintenance and operation to be divided in the same proportion, 50 per cent on each party.

Order to issue accordingly.

A. SYLVESTRE.

I concur:

H. B. CHASE.

OTTAWA, October 7, 1953.

ORDER No. 82359

In the matter of the application of the City of Sorel, in the Province of Quebec, for the installation of automatic protection at the crossing of the line of the Canadian National Railways and Prince Street, in the said City at mileage 44·47, Sorel Subdivision; and in the matter of the apportionment of the costs if such installation is ordered:

File No. 26782·306

WEDNESDAY, the 14th day of October, A.D. 1953.

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at a sittings of the Board held in Sorel, P.Q., on the seventeenth day of April, 1953, in the presence of Counsel for the City of Sorel and the Canadian National Railways—

It is ordered

1. That, within six months from the date of this Order, the Canadian National Railways install and maintain two flashing light signals and bells at the crossing of their railway and Prince Street in the City of Sorel, in the Province of Quebec, mileage 44·47, Sorel Subdivision.

2. That the protection hereby ordered be installed in accordance with the provisions of General Order No. 607, with circuits to operate the protection automatically on the main line, and with special circuits to operate the protection automatically or manually on the side tracks, with a positive operating circuit over the crossing on each of the side tracks; a detailed plan showing the layout thereof to be submitted for the approval of an Engineer of the Board.

3. That forty per cent of the cost of installing the said flashing light signals, bells and circuits, not exceeding, however, the sum of \$2,480.00, be paid out of the Railway Grade Crossing Fund, and the remainder of such cost, as well as the cost of maintenance and operation, be borne and paid in equal amounts by the City of Sorel and the Canadian National Railways.

HUGH WARDROPE,
*Assistant Chief Commissioner,
The Board of Transport Commissioners for Canada.*

(TRADUCTION)

In re requête de la cité de Sorel, province de Québec, demandant l'installation d'un mode automatique de protection à la croisée de la voie des Chemins de fer Nationaux du Canada et de la rue du Roi, en ladite cité, au mille 44·49 de la Subdivision Sorel, et la question de la répartition du coût de telle installation, si décrétée.

Dossier n° 26782·292

et

In re requête de la cité de Sorel, province de Québec, demandant l'installation d'un mode automatique de protection à la croisée de la voie des Chemins de fer Nationaux du Canada et de la rue Prince, en ladite cité, au mille 44·47 de la Subdivision Sorel, et la question de la répartition du coût de telle installation, si décrétée.

Dossier n° 26782·306

Requête entendue par:

M. ARMAND SYLVESTRE, C.R., *Commissaire en chef suppléant*,
M. H. B. CHASE, C.B.E., *Commissaire*.

A SOREL, le 17 avril 1953

Ont comparu:

M. LUCIEN CARDIN, M.P., pour la ville de Sorel,
M. G.-M. COOPER et M. E.-D. PINSONNAULT, pour les Chemins de
fer Nationaux du Canada

JUGEMENT

SYLVESTRE, Commissaire en chef suppléant,

Nous avons devant nous deux requêtes de la Ville de Sorel demandant l'installation d'un système de protection aux rues du Roi (KING) et Prince.

A l'audition, le Procureur de la Ville a déclaré que priorité devait être donnée à la rue Prince, vu que c'était l'endroit le plus dangereux des deux et c'est la raison pour laquelle nous adjugeons seulement pour la rue Prince, quitte à la Requérante de faire une nouvelle requête si elle désire que la rue du Roi (KING) soit protégée.

La population de Sorel est de 17,000 âmes et le trafic est très dense à la rue Prince. Un relevé du trafic à cet endroit, fait le 16 avril 1953, pour une période de vingt-quatre heures, établit ce qui suit:

Dans la direction nord-sud et sud-nord:

Automobiles	1,108
Camions	369
Voitures à traction animale	22
Bicycles	705
Autobus	11
Piétons	1,814
Trains de fret	30
Trains-voyageurs	5

L'état financier de la ville est mauvais et cette année l'administration se terminera par un déficit. Il y a plusieurs établissements importants localisés à Sorel, et parmi eux se trouve la Marine Industries Company, employant plusieurs centaines d'hommes mais toutes ces industries sont situées sur la rive ouest de la Rivière Richelieu, sont en dehors des limites de la ville et, n'en faisant pas partie, ne paient aucunes taxes.

Est-ce une raison pour décréter l'installation de protection à une rue de Sorel et ne rien charger à la ville et faire payer seulement la compagnie de chemin de fer. Je ne le crois pas.

Les estimés fournis établissent le coût de l'installation à \$6,200 et les frais d'entretien à \$600 par année.

En conséquence, dans l'intérêt de la sûreté du public, j'ordonnerais qu'un système automatique lumineux, avec cloches, soit installé à la rue Prince; quarante pour cent à être payé à même la Caisse des Passages à Niveau, n'excédant pas la somme de \$2,480, et la balance à être divisée, chaque partie payant 50%; et même proportion pour le coût d'entretien et d'opération. Une ordonnance sera émise à cet effet.

A. SYLVESTRE,
Commissaire en chef suppléant.

"J'agrée"

H. B. CHASE.

OTTAWA, le 7 octobre 1953.

ORDONNANCE N° 82359

MERCREDI, le 14^e jour d'octobre, A.D. 1953A. SYLVESTRE, C.R., *Commissaire en chef suppléant.*H. B. CHASE, C.B.E., *Commissaire.*

En ce qui concerne la requête de la Cité de Sorel, dans la province de Québec, pour l'installation d'un mode de protection automatique à la traverse de la voie ferrée des Chemins de fer Nationaux et de la rue Prince, dans ladite Cité au mille 44.47 subdivision de Sorel; et en ce qui concerne la répartition du coût si ces installations sont ordonnées:

Dossier n° 26782-306

Après avoir entendu la requête aux audiences de la Commission tenues à Sorel (P.Q.), le dix-septième jour d'avril, 1953, en présence de l'avocat de la Cité de Sorel et des chemins de fer Nationaux—

Il est ordonné

1. Que dans les six mois de la date de la présente ordonnance, les chemins de fer Nationaux installent et entretiennent deux signaux à feu éclair et des cloches à la traverse de leur voie ferrée et de la rue Prince dans la Cité de Sorel, dans la province de Québec, mille 44.47 subdivision de Sorel.

2. Que le mode de protection par les présentes ordonné soit installé en conformité des dispositions de l'ordonnance générale n° 607 avec circuits pour mettre en fonctionnement automatique le mode de protection sur la ligne principale et avec circuits spéciaux pour mettre en fonctionnement automatiquement ou à la main le mode de protection sur les voies de triage, avec un circuit d'exploitation positif sur la traverse de chaque côté des voies de triage; un plan indiquant la disposition de ces derniers devant être soumis à l'approbation d'un ingénieur de la Commission.

3. Que quarante pour cent du coût d'installation desdits signaux à feu éclair, des cloches et circuits, n'excédant pas toutefois la somme de \$2,480, soient payés à même la caisse des passages à niveau et que le reliquat de ce coût, de même que le coût d'entretien et d'exploitation, soient supportés et payés à parts égales par la Cité de Sorel et les chemins de fer Nationaux.

HUGH WARDROPE,

*Commissaire en chef adjoint,**La Commission des transports du Canada.*

In the matter of the hold-down of the Crow's Nest Pass rates in respect of local mileage rates on grain and grain products within Western Canada, at intermediate points in the direct line of transit between prairie points and Fort William:

File No. 46921

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Assistant Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

Appearances:

R. H. MILLIKEN, Q.C., for Saskatchewan Co-Operative Producers Limited.

C. D. SHEPARD, Q.C., for the Government of Manitoba.

R. E. MOFFAT, for Manitoba Federation of Agriculture and Co-Operation.

J. J. FRAWLEY, Q.C., for the Province of Alberta.

C. W. BRAZIER, for the Province of British Columbia.

J. L. O'BRIEN, Q.C., for the Railway Association of Canada and Canadian Pacific Railway Company.

H. E. O'DONNELL, Q.C., for the Railway Association of Canada and Canadian National Railways.

K. D. M. SPENCE and I. D. SINCLAIR, for the Canadian Pacific Railway Company.

J. W. G. MACDOUGALL and A. H. HART, for the Canadian National Railways.

W. J. SMALLACOMBE, for Purity Flour Mills Company Ltd., and Maple Leaf Milling Co. Ltd.

R. W. HARDIE, for Lake-of-the-Woods Milling Company Limited.

J. K. SMITH, for Aluminum Company of Canada Limited.

JUDGMENT

KEARNEY, J., Chief Commissioner:

This is a case which concerns the hold-down on local grain mileage rates in Western Canada and at the out-set I think it would be appropriate to review previous judgments of the Board in respect of the hold-down.

Origin and application of the hold-down

In Part XX of its Western Rates Judgment in 1914 the Board prescribed a scale of local mileage rates on grain and grain products within Western Canada and a so-called "hold-down". In that Judgment the Board said:

"A large number of complaints have been received as to these rates. The ground of the complaint has almost invariably been the existence of higher charges to intermediate points on the direct movement to Fort William. For example, the present rate from Broadview to Winnipeg is 20 cents, although to Fort William the rate is only 16 cents; and the rate to Kenora is 25 cents as against the 16-cent rate to Fort William.

I am of the opinion that all these rates should in the future be subject to the Fort William rates as maxima to or from any intermediate point on the direct line of transit to and from Fort William; further, that reductions should be made in these local rates; and that the reductions should be of a fairly substantial character."

General Order No. 125 dated May 30, 1914, gave effect to Part XX of that Judgment.

The Board's tariff records show that from October 7, 1903, to September 15, 1907, the C.P.R. applied Fort William grain rates as maxima *to* intermediate points and for the greater part of that period as maxima *from* certain intermediate points. In 1907 the railways restricted the Fort William rates to traffic thereto or for beyond, and their tariffs specified "to Fort William and Port Arthur when destined to, or for re-shipment to points east thereof"; the intermediate rule was also changed by a provision that the rates were terminal rates and did not apply as maxima to intermediate points except as provided in milling in transit privileges. The milling in transit rule provided that grain could be milled in transit and the product forwarded to Fort William-Port Arthur and points east thereof at the balance of the through rate plus stop-off charges. The change in the intermediate rule was carried forward in successive tariffs until the Board in its Western Rates Judgment ordered the application of the Fort William maxima at intermediate points.

The Fort William grain rates have varied from time to time before and after the Western Rates Judgment. Eventually the proviso to section 325(5) of the Railway Act,* passed in 1925, provided, in effect, that the rates on grain and flour stipulated in the Crow's Nest Pass Agreement are to remain in force and to apply from all points west of Fort William to Fort William or Port Arthur whether they were or were not on the C.P.R. line in 1897 or on any other line of railway subject to the jurisdiction of the Parliament of Canada. The hold-down presently in effect, therefore, is a hold-down to the maxima of the said Fort William rates stipulated in the Crow's Nest Pass Agreement.

The hold-down applies to both eastward and westward movements in the direct line of transit but does not apply to movements that are not in the direct line of transit, e.g., a north-south movement. Neither does the hold-down apply at stations in British Columbia west of Creston and Kamloops, nor to grain and grain products moving westward to British Columbia Ports for domestic consumption or for export, although by order of the Board movements to such ports for export take the benefit of the Crow's Nest Pass rates.

Review of Judgments since 1946

In its application, dated October 9, 1946, for a general increase in freight rates, the Railway Association of Canada sought authority to increase the scale of local mileage rates on grain and grain products and rates related thereto within Western Canada. That scale had not been changed since December 1921 and was the scale prescribed by General Order No. 125 as amended from time to time. The Board in its 21 per cent Judgment refused to authorize an increase in such rates. The Board said:

"Inasmuch as no advance was applied for or is being made with respect to the rates on grain and grain products from points within Western Canada to the head of the lakes, and Armstrong, Ontario, or to British Columbia coast points when for export, it is considered that no increase

* The references herein to the Railway Act are to Chapter 170, R.S. 1927. The sections have different numbers in the Railway Act, c. 234, R.S. 1952.

should be authorized in the domestic grain and grain products rates between points in Western Canada or with respect to the feed grain rates covered by C.F.A. Tariff 145, C.T.C. 154. To increase these rates with no increase in the others would create a spread in the rates, which, it is considered, would be unreasonable."

In its application dated December 21, 1950, for a general rate increase, the Railway Association again asked the Board to authorize an increase in the said scale, but during the hearing the Board directed that the Applicant withdraw the part of its application relating to that scale and that the application to increase the scale be treated as a separate application.

In its application dated July 14, 1952, the Railway Association applied for an order rescinding General Order No. 125 insofar as it gave effect to Part XX of the Western Rates Judgment which prescribed a scale of local mileage rates on grain and grain products within Western Canada and made them subject to the hold-down, and the Association sought authority to publish a new scale of local mileage rates on grain and grain products within Western Canada. In its Judgment thereon dated October 24, 1952, the Board authorized a new scale for Western Canada, which it considered to be a step towards equalization, but did not authorize removal of the hold-down, stating that the circumstances did not warrant removal and that the question of the hold-down would be reviewed in the Equalization Case then pending.

Then the Board gave its Equalization Judgment dated December 12, 1952, in Part 2 of which it dealt with domestic grain rates and stated that it was preparing an equalized scale of domestic grain mileage rates, and in respect of the hold-down decided "that the Board has jurisdiction to remove the hold-down, and so that interested parties may if they see fit during intended equalization hearings show cause why the Board might lack such jurisdiction we now intimate to such parties that we are planning not to apply the hold-down in the new scale that we are preparing."

Review of Equalization Judgment in respect of the hold-down

The Board advised interested parties that it would review its decision in respect to its jurisdiction to remove the hold-down, if any party filed an application for such review. Subsequently the Saskatchewan Cooperative Producers Limited and the Government of Saskatchewan filed requests to be permitted to appear before the Board to question the Board's power to remove the hold-down, and the matter of the Board's power in that respect was set down for hearing and was heard on May 25, 1953, at Ottawa. Evidence and argument were submitted at that hearing.

Counsel for the railways and for the Government of British Columbia contended that the Board has power to remove the hold-down. Counsel for Saskatchewan Cooperative Producers Limited, Manitoba Federation of Agriculture and Cooperation, the Government of Manitoba and the Province of Alberta all contended that the Board lacks such power.

Before discussing the arguments which were made before us I think a brief recital of the history of the Crow's Nest Pass rates is called for.

Crow's Nest Pass Rates

In 1897 the Canadian Pacific Railway Company desired to build a railway from Lethbridge through the Crow's Nest Pass to Nelson, British Columbia, and needed financial assistance for the enterprise. Parliament passed "An Act to Authorize a Subsidy for a Railway Through the Crow's Nest Pass"—Statutes of Canada 60-61 Vict. c. 5. Under that Act the Governor in Council was authorized to grant assistance to the C.P.R. in the form of a subsidy but the grant was subject to the C.P.R. entering into an agreement incorporating

the conditions outlined in the Act. The C.P.R. entered into the agreement, which, *inter alia*, contained certain covenants on the part of the company as to rates. One of these covenants was that local rates on the proposed railway and certain other C.P.R. lines in British Columbia, and to and from such lines, would be subject to revision and control by the Governor in Council or by a railway commission when established. The other covenants as to rates were:

1. Clause (d) of the agreement, which was a covenant to grant in perpetuity varying percentage reductions on certain commodities from points on C.P.R. lines then in existence in Eastern Canada to points on C.P.R. lines then built in the west;

2. Clause (e) as follows:

"(e) That there shall be a reduction in the company's present rates and tolls on grain and flour from all points on its main line, branches, or connections, west of Fort William to Fort William and Port Arthur and all points east, of three cents per one hundred pounds, to take effect in the following manner: One and one-half cents per hundred pounds on or before the first day of September, one thousand eight hundred and ninety-eight, and an additional one and one-half cents per one hundred pounds on or before the first day of September, one thousand eight hundred and ninety-nine; and that no higher rates than such reduced rates or tolls shall be charged after the dates mentioned on such merchandise from the points aforesaid."

The Crow's Nest Pass Agreement became fully effective in respect of freight rates on September 1, 1899. Its effect on grain and flour rates to Fort William and subsequent changes in such rates, were illustrated in the Report of the Royal Commission on Transportation, 1951, at page 240, by using the rate on grain and flour from Regina to Fort William.

On September 1, 1899, that particular rate was reduced from 23¢ to 20¢ in accordance with the said Agreement. It is 20¢ today and has been 20¢ since July 6, 1922, but changes occurred in its level in the years between 1899 and 1922.

It remained 20¢ from September 1899 until October 1903 when it was reduced to 18¢ in order that the C.P.R. might meet competition caused by the granting of a rate lower than the Crow's Nest Pass rate by the Canadian Northern Railway under an agreement with the Government of Manitoba.

The 18¢ rate remained in force until June 1, 1918, when the rate went back to the 20¢ level authorized by the Crow's Nest Pass Agreement.

During the final period of World War I substantial advances in freight rates were made owing to increases in operating expenses caused by the conditions arising out of the war. These increases were provided for chiefly by Orders in Council, passed under the War Measures Act, which disregarded restrictions upon rates imposed by such Special Acts and agreements as the Crow's Nest Pass Act and Agreement. The Regina grain rate was thereby increased to 24¢ on August 12, 1918.

When the Railway Act was consolidated in 1919, subsection 5 of section 325 continued the suspension of statutory restrictions on the rate controlling powers of the Board but a proviso limited the life of the sub-section to three years from July 7, 1919.

The 24¢ Regina rate was increased on September 13, 1920 to 32.5¢. On January 1, 1921, it was brought down to 31¢ and on December 1, 1921, to 29¢.

On July 6, 1922, the suspension period in respect of Crow's Nest Pass rates on grain and flour expired and the Regina rate returned to its 20¢ Crow's Nest Pass level. However, suspension of the westbound rates stipulated in the Crow's Nest Pass Agreement were continued until July 6, 1924, by virtue of legislation and Order in Council.

In 1924 a majority of the Board held that the Crow's Nest Pass Act and Agreement were not binding upon the Board. An appeal was taken to the Supreme Court of Canada, which held in *Governments of Alberta, Saskatchewan and Manitoba v. C.P.R.*, 1925, S.C.R. 155, that the Crow's Nest Pass Act and Agreement were binding on the Board and that the rates thereby fixed applied exclusively to the designated traffic between points which were on C.P.R. lines in 1897.

Following that decision, Parliament in 1925 passed the present sub-sections 5 and 6 of section 325 of the Railway Act which are as follows:

"5. Notwithstanding the provisions of section three of this Act the powers given to the Board under this Act to fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require, shall not be limited or in any manner affected by the provisions of any Act of the Parliament of Canada, or by any agreement made or entered into pursuant thereto, whether general in application or special and relating only to any specific railway or railways, and the Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities, or of undue or unreasonable preference, on the ground that such discrimination or preference is justified or required by any agreement made or entered into by the company: Provided that, notwithstanding anything in this subsection contained, rates on grain and flour shall, on and from the twenty-seventh day of June, one thousand nine hundred and twenty-five, be governed by the provisions of the agreement made pursuant to chapter five of the Statutes of Canada 1897, but such rates shall apply to all such traffic moving from all points on all lines of railway west of Fort William to Fort William or Port Arthur over all lines now or hereafter constructed by any company subject to the jurisdiction of Parliament."

"6. The Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities or of undue or unreasonable preference, respecting rates on grain and flour, governed by the provisions of chapter five of the Statutes of Canada 1897, and by the agreement made or entered into pursuant thereto within the territory in the immediately preceding subsection referred to, on the ground that such discrimination or preference is justified or required by the said Act or by the agreement made or entered into pursuant thereto: 1919, c. 68, s. 325; 1925, c. 52, ss. 2 and 3."

As a result of the 1925 statute the C.P.R. had to apply the rates therein referred to from all points west of Fort William to Fort William and Port Arthur instead of only from shipping points existing at the date of the Crow's Nest Pass Agreement. Other railways also became bound to apply such rates from all points west of Port Arthur.

A further effect of the 1925 statute was that in 1927 the Board found the difference between eastbound grain rates and rates on grain through British Columbia ports for export unjustified and ordered that the rates on grain and flour moving through British Columbia coast ports for export be reduced to the Crow's Nest Pass level. However, as previously indicated, that level does not apply to grain and flour moving to those ports for domestic consumption.

Evidence at the May 25, 1953, Hearing

Mr. Arkle, Freight Traffic Manager of the Prairie-Pacific Region of the C.P.R., was the only witness called at the May 25, 1953, hearing. His evidence was mainly to the following effect: That Western Canada grain falls into two categories,

- (a) grain for local consumption and for feed and seed in Western Canada;

- (b) grain that is moved out of the Prairie Provinces into the export position which it reaches at Fort William, Churchill, Vancouver, Victoria and Prince Rupert;

That a very large proportion of grain moving to Fort William is for export with a small proportion consumed in Eastern Canada;

That Fort William is the base price fixing point under the International Wheat Agreement and the Canadian Wheat Board Act and that Fort William was also the point at which the price for Western Canadian wheat was fixed when private trading was the method prior to the establishment of the Wheat Board;

That there are differences in how grain is carried when it is destined locally within Western Canada and when it is destined to Fort William, namely, (a) in the volume transported—the movement of grain to Fort William is virtually in solid trains handling maximum tonnage with a minimum of switching and terminal work both in transit and at Fort William, whereas grain moving locally within Western Canada invariably entails frequent handling of single cars—however, this situation does not apply to the same extent in the case of flour, and flour gets the benefit of the Fort William maxima whether it moves as a single car or many cars in a train; (b) in the contract of carriage—the railways forego demurrage on grain movements to Fort William in order to have the privilege of diverting cars to elevators at Fort William which are able to unload at times when elevators to which the cars are consigned cannot do so, whereas grain moving locally within Western Canada is subject to demurrage, and diversions of such cars cannot be made at the will of the railways—the hold-down does not apply when there is milling in transit to points west of Fort William but does apply where there is milling in transit to Fort William;

(c) as to minimum weights—on grain the same minimum weights apply, but the minimum weight on grain products handled under terminal rates to Fort William and Port Arthur is 50,000 pounds whereas the minimum under mileage rates in Western Canada is 40,000 lbs.;

(d) as to additional transportation charges—the movement to Fort William contemplates the assessment of additional transportation charges beyond that point, whereas no additional charges are contemplated on local movements in Western Canada;

That processors of grain in Western Canada sell their products in four markets (a) Prairie Provinces and British Columbia, (b) Eastern Canada, (c) Eastern United States, (d) overseas markets;

That in the Prairie Provinces and British Columbia there is competition between Western processors but in the other markets there is active competition between both Eastern and Western processors—that the Western Canadian miller is able to reach the Eastern Canadian and Eastern United States and overseas markets on the same basis as the Eastern Canadian miller, because all grain and grain products moving to Fort William do so at the terminal rates, which are designated in the tariffs as special rates because the essential purpose of moving the grain to Fort William is to place it in position to enter world commerce.

Argument

The argument of Counsel for the railways may be summarized as follows:

That not only has the Board jurisdiction to remove the hold-down but that it has no jurisdiction to retain it; that as of 1925 the Crow's Nest Pass Agreement respecting rates on grain and flour disappeared and Parliament provided by Section 325 of the Railway Act a statutory rate on grain and flour applicable to all railways from all points in Western Canada, and the only limitation in sub-section 5, in so far as unjust discrimination is concerned, is that the Board

shall not excuse any charge of unjust discrimination or undue or unreasonable preference on the ground that the discrimination or preference is justified or required by any agreement made or entered into by the company—and subsection 6 provides that the Board shall not excuse any charge of unjust discrimination or undue or unreasonable preference respecting rates on grain and flour governed by the Crow's Nest Pass Act and Agreement on the ground that it is justified or required by that Act or Agreement—Parliament thus specifically separated the two cases where the Board should not excuse a charge of unjust discrimination, but the rule theretofore applicable remained, namely, the rule that the Board could not use a statutory rate in determining whether a charge of unjust discrimination in respect of another rate was founded or unfounded—on that rule alone the decision of the Board as to the removal of the hold-down should be sustained; that the Crow's Nest Pass rates were not in effect at the time of the Western Rates Judgment or when section 314(5) was first put into the Railway Act.

That as to section 314(5) the burden is on those claiming that the hold-down should be retained to show that there is a like description of goods carried under substantially similar circumstances and conditions in the same direction over the same line—that burden has not been discharged, but on the contrary the evidence shows that there are no substantially similar circumstances and conditions;

That in any event there is no justification for the hold-down for Western traffic;

That the hold-down creates unjust discrimination in that on Eastbound traffic the rate is fixed from the point of origin but on Westbound traffic the rate is fixed from the point of destination, and thus two people in competitive markets are charged different rates for the same distance;

That in determining whether there are substantially similar circumstances and conditions, all circumstances and conditions that appear applicable may be considered whether or not directly relating to the carriage or service;

That unjust discrimination was not unlawful at common law and that the provisions of the Railway Act as to unjust discrimination must be strictly construed;

That section 314(5) does not apply where the circumstances and conditions are not substantially similar—there is competition at the destined point between Western mills and Eastern mills in the Eastern Canadian and Eastern United States markets and this competition is a dissimilarity that makes section 314(5) inapplicable;

That there is also competition within Western Canada between Western mills, and the Board may hold that section 314(5) will not apply because of the competitive market conditions within Western Canada;

That the hold-down creates unjust discrimination against North-South shippers;

That if the hold-down is made to apply to eastward traffic only, the discrimination will be made worse, and if the hold-down is made to apply to traffic north, south, east and west the discrimination will be even worse again—that it was not the purpose of the Railway Act to enable the Board to bring about unjust discrimination;

That section 325(5) deals with specific rates to Fort William and (a) they are statutory rates expressly removed from the jurisdiction of the Board and they cannot be used for the purpose of comparing other rates; (b) they are export rates and not available for comparison with domestic rates;

That the test is whether the intermediate rates are fair and reasonable.

Counsel for British Columbia supported the argument of Counsel for the railways and referred to the Judgment of Anglin, C.J., in *Governments of*

Alberta, Saskatchewan and Manitoba v. C.P.R., 1925, S.C.R. at page 172 and stated that it sets forth the basis upon which the Board has jurisdiction to remove the hold-down.

Counsel who contended that the Board lacks jurisdiction to remove the hold-down made the following main submissions:

(a) That section 314(5) was in the Railway Act when section 325(5) was passed, and if Parliament had intended that section 314(5) would not apply to the rates in the proviso to section 325(5) it would have so stated—that the two sub-sections must be read together.

(b) That grain and flour moving from Prairie points to Fort William and from Prairie points to intermediate points in the same direction and over the same line or route are goods of like description and are carried under substantially similar circumstances and conditions within the meaning of section 314(5).

(c) That the competition referred to in section 314(5) is competition at the far point, not competition at intermediate points.

(d) That the rates in the proviso to section 325(5) were not made by Parliament to meet competition or owing to competition within the meaning of section 314(5)—that section 325(5) does not provide that the rates in the proviso are competitive nor does it confine such rates to grain for export.

(e) That the rates to the Lakehead in the proviso to section 325(5) are fixed by statute and therefore must be regarded as inherently just and reasonable.

(f) That, therefore, the maxima of the Crow's Nest Pass rates on grain and flour apply to the movements to intermediate points.

Conclusions

The long and short haul rule in section 314(5) does not apply unless there is a like description of goods carried under substantially similar circumstances and conditions. Mr. Arkle's evidence was in respect of the circumstances and conditions under which domestic grain traffic in Western Canada, on the one hand, and the grain traffic referred to in the proviso to section 325(5), on the other hand, are carried.

After considering the evidence and argument we are of the opinion that the different manner in which grain is handled when destined to Fort William compared with similar grain destined locally in Western Canada, more particularly with regard to volume, the contract of carriage, the fact that the movement to Fort William contemplates additional charges which is not the case on local Western movements, constitute sufficient differences in circumstances and conditions to justify us in concluding that the shipments under consideration do not move under substantially similar circumstances and conditions within the meaning of section 314(5) of the Railway Act.

Furthermore, the grain and flour rates stipulated in the proviso are in respect of traffic moving from points west of Fort William to Fort William or Port Arthur, and the proviso itself does not impose any limitation on rates on grain and flour moving Westward, or at intermediate points, or other than to Fort William or Port Arthur.

We consider that the Crow's Nest Pass Rates on grain and flour from prairie points to Fort William and Port Arthur and the subsequent rates stipulated in the proviso were made and remain as essentially export competitive rates, the principal purpose of which was to assist the marketing of Western Canadian grain and flour in world markets outside of Canada. In our opinion there exists world market competition that may make it expedient, (in the sense that "expedient" is used in section 314(5) not to require observance of the long and short haul rule contained in section 314(5)) in the new scale

that we are preparing even assuming that domestic grain traffic in Western Canada and the grain traffic referred to in the proviso are of like description and carried under substantially similar circumstances and conditions within the meaning of that section.

Consequently the fixing of just and reasonable domestic grain and grain products rates within Western Canada is not restricted or circumscribed by the provisions of section 314(5) of the Railway Act.

The rates at intermediate points must, of course, be just and reasonable, and before putting into effect a new equalized scale of domestic grain mileage rates, as intimated in our Equalization Judgment, or otherwise removing the hold-down, we will afford an opportunity to interested parties to make representations and be heard in support of, or objection to, the new scale or changes in the existing rates.

As no rate changes are being ordered or authorized at this time, no order is necessary.

OTTAWA, October 19, 1953.

JOHN D. KEARNEY.

I concur:

A. SYLVESTRE.

I concur:

HUGH WARDROPE.

GENERAL ORDER No. 790

In the matter of the Uniform Code of Operating Rules effective August 26, 1951, and approved by General Order No. 750, dated April 7, 1951:

And in the matter of General Orders No. 42, dated July 12, 1909, No. 79, dated July 20, 1911, No. 108, dated August 11, 1913, No. 255, dated November 20, 1918, No. 322, dated December 10, 1920, No. 336, dated April 2, 1921 and No. 578, dated September 29, 1938:

File No. 43757

WEDNESDAY, the 14th day of October, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that General Orders No. 42, dated July 12, 1909, No. 79, dated July 20, 1911, No. 108, dated August 11, 1913, No. 255, dated November 20, 1918, No. 322, dated December 10, 1920, No. 336, dated April 2, 1921 and No. 578, dated September 29, 1938, be, and they are hereby, rescinded.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82445 Oct. 28—Authorizing the C.N.R. to reconstruct the bridge over Cottonwood Creek, mileage 11·0 Central Butte Subdivision, Saskatchewan.
- 82446 Oct. 28—Authorizing the Lake Erie and Detroit River Railway Company to construct a railroad car ferry slip in the City of Sarnia, Ontario.
- 82447 Oct. 28—In the matter of the application of the Canadian Freight Association under the provisions of Part V of the Transport Act, 1938, for approval of an agreed charge.
- 82448 Oct. 29—Permitting the removal of slow order at C.P.R. crossing south of the station at Versailles, P.Q.
- 82449 Oct. 29—In the matter of application of Imperial Oil Limited for authority to construct a production flow line under the pipe line of Interprovincial Pipe Line Company in S.E. $\frac{1}{4}$ -31-49-21 W4M, Alberta.
- 82450 Oct. 29—Approving plan showing the signals as relocated at crossing of C.P.R. and Park Road, Oshawa, Ontario.
- 82451 Oct. 29—Authorizing the C.N.R. to make changes to the interlocking at crossing of the C.P.R. near Regina, Saskatchewan.
- 82452 Oct. 30—Authorizing the Saskatchewan Department of Highways and Transportation to construct Highway No. 5 across C.N.R. at mileage 31·98, Cudworth Subdivision, Saskatchewan.
- 82453 Oct. 30—Authorizing the Township of Dowling, Ontario, to construct a public road across C.P.R. at mileage 102·5, Cartier Subdivision, Ontario.
- 82454 Oct. 30—In the matter of application of the C.N.R. for approval of plan showing short arm gates as installed at Rose Point swing bridge mileage 4·9, Depot Harbor Subdivision, Ontario.
- 82455 Oct. 30—Restricting the speed of trains at C.P.R. crossing of Wellington Street, Chatham, Ontario.
- 82456 Oct. 30—Authorizing the Bell Telephone Company of Canada to construct its line of telephone upon and along certain public highways in the County of Kent, Ontario.
- 82457 Oct. 30—Permitting the removal of slow order at C.N.R. crossing east of station at St. Felicien, P.Q.
- 82458 Oct. 30—Authorizing the C.P.R. to construct its Railway across the road allowance at mileage 37·37, Empress Subdivision, Saskatchewan.
- 82459 Oct. 30—Permitting the removal of slow order at C.N.R. crossing at mileage 91·4, Qu'Appelle Subdivision, Saskatchewan.
- 82460 Oct. 30—Authorizing the C.N.R. to construct their railway across the road allowance at mileage 88·9, Gladstone Subdivision, Manitoba.
- 82461 Oct. 30—Authorizing the Algoma Central and Hudson Bay Railway Company to construct a farm crossing over its main line track at Wawa, Ontario.
- 82462 Oct. 30—Authorizing the Township of Seneca, Ontario, to raise the approach grade at the crossing of the highway and the C.N.R. near Caledonia, Ontario.
- 82463 Oct. 30—Approving the location and details of C.N.R. freight and passenger shelter at Kidd, British Columbia.
- 82464 Oct. 30—Permitting the removal of slow order at C.P.R. crossing mileage 60·5, Glenboro Subdivision, Manitoba.
- 82465 Oct. 30—Authorizing the Village of Deschenes, P.Q., to construct a pedestrian crossing across C.P.R. in the said village.
- 82466 Oct. 30—Authorizing the C.P.R. to operate under the overhead highway bridge at mileage 59·4, Alberta Central Subdivision, Alberta.
- 82467 Oct. 30—Authorizing the Department of Public Works of British Columbia to construct a 12-inch concrete sewer pipe under the C.P.R. at mileage 1·77, New Westminster Subdivision, British Columbia.
- 82468 Oct. 30—Approving proposed location of pipe line of McColl-Frontenac Oil Company Limited near C.P.R. track at Yorkton, Saskatchewan.
- 82469 Oct. 30—Approving proposed location of storage tanks, etc., of Standard Oil Company of British Columbia Limited near C.P.R. tracks at Kamloops, B.C.
- 82470 Nov. 2—Approving under the Maritime Freight Rates Act tolls published from certain stations in the Provinces of New Brunswick, Nova Scotia, Prince Edward Island and Quebec, East of Diamond, Levis and Boundary, Quebec, and in Tariff C.T.C. No. 1292 and in supplements thereto, filed by the Canadian Freight Association.
- 82471 Nov. 2—Approving plan showing changes in signal protection at interlocking plant at the crossings of the Lake Erie and Northern Railway, C.N.R. and Toronto, Hamilton & Buffalo Railway Company, Brantford, Ontario.
- 82472 Nov. 2—Permitting the removal of slow order at C.N.R. crossing east of station at Sorel, P.Q.

- 82473 Nov. 2—Authorizing the Canadian Northern Railway Co., to construct a spur to serve McCosham Storage and Distributing Company Limited in the Rural Municipality of Cory No. 344, etc.
- 82474 Nov. 2—Authorizing the Canadian Northern Railway Company to construct a spur to serve the General Motors of Canada Limited across 34th Street, Saskatoon, Saskatchewan.
- 82475 Nov. 2—Restricting the speed of trains at Grand River Railway and Samuelson Street at Galt, Ontario.
- 82476 Nov. 2—In the matter of accident at C.N.R. crossing of Eastern Avenue, Toronto, Ontario.
- 82477 Nov. 2—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Sections 3 and 9.
- 82478 Nov. 2—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.N.R. under Sections 3 and 9.
- 82479 Nov. 2—Permitting the removal of slow order at the C.P.R. crossing near St. Martin Junction, P.Q.
- 82480 Nov. 2—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Mayerthorpe, Alberta.
- 82481 Nov. 2—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at Sunnynook, Alberta.
- 82482 Nov. 3—Authorizing the Chesapeake and Ohio Railway Company to construct its railway upon and across Cemetery Road near Wallaceburg, Ontario.
- 82483 Nov. 3—Approving operation of C.P.R. trains over private siding serving Canada Wire & Cable Company Limited, in Smith Falls, Ontario.
- 82484 Nov. 3—Restricting the speed of C.N.R. trains at crossing of Strange Street, Kitchener, Ontario.
- 82485 Nov. 3—Approving under the Maritime Freight Rates Act tolls published in Tariff filed by the C.P.R. under Section 8.
- 82486 Nov. 3—Approving proposed location of storage tanks, etc., near C.N.R. tracks at Sandy Beach, P.Q.
- 82487 Nov. 3—Permitting the removal of slow order at C.N.R. crossing of Midland Avenue, Scarboro, Ontario.
- 82488 Nov. 3—In the matter of application of the C.P.R. for approval of plan showing automatic protection as installed at the crossing of the highway and the railway of the C.P.R. near Upper Kent, New Brunswick.
- 82489 Nov. 3—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Bassano, Alberta.
- 82490 Nov. 3—In the matter of application of C.P.R. for approval of plan showing automatic protection as installed at the crossing of the highway and the railway, near station in the Town of Upper Kent, New Brunswick.
- 82491 Nov. 3—Approving operation of C.N.R. trains over private siding serving Royalite Products Limited near Halston, British Columbia.
- 82492 Nov. 3—Permitting the removal of slow order at Niagara, St. Catharines & Toronto Railway crossing near the Village of Fonthill, Ontario.
- 82493 Nov. 3—Permitting the removal of slow order at C.N.R. crossing near station at Port Elgin, Ontario.
- 82494 Nov. 4—Approving proposed location of loading racks of Canadian Gulf Oil Company, near the C.N.R. tracks at mileage 45.1, Drumheller Subdivision, Alberta.
- 82495 Nov. 4—Approving under Maritime Freight Rates Act tolls published in Tariff C.T.C. No. 1494 filed by the Canadian Freight Association under Sections 3 and 9.
- 82496 Nov. 4—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under Sections 3 and 9.
- 82497 Nov. 4—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under Sections 3 and 9.
- 82498 Nov. 4—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Canadian Freight Association under Sections 3 and 8.
- 82499 Nov. 4—Approving under Maritime Freight Rates Act tolls published in tariff filed by the Canadian Pacific Railway Company under Section 8.
- 82500 Nov. 4—Permitting the removal of slow order at C.N.R. crossing near Udney, in the Province of Ontario.
- 82501 Nov. 4—Authorizing the Quebec Department of Roads to relocate the highway where it crosses the C.N.R. in the Municipality of St. Simon, P.Q.
- 82502 Nov. 4—Amending Order No. 82218, dated September 22, 1953, in connection with automatic protection at crossing of the Midland Railway Company and the C.P.R. at Corydon Avenue, Winnipeg, Manitoba.

- 82503 Nov. 4—Approving under the Maritime Freight Rates Act tolls published in tariff filed under Section 3.
- 82504 Nov. 4—Relieving the C.P.R. from erecting and maintaining cattle guards at the crossings of its railway and the highway at certain mileages in the Province of Saskatchewan on its Maple Creek Subdivision.
- 82505 Nov. 4—Approving operation of C.P.R. trains, engines and cars over private siding serving McColl Frontenac Oil Company Limited, Winnipeg, Manitoba.
- 82506 Nov. 5—Authorizing the Quebec Central Railway Company to construct and maintain a bridge over the Thetford River at mileage 65.32, Quebec Subdivision.
- 82507 Nov. 5—Authorizing the C.N.R. to open for the carriage of freight traffic their railway line from Sherridon to Lynn Lake, Manitoba.
- 82508 Nov. 5—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, at Glaslyn, Saskatchewan.
- 82509 Nov. 5—In the matter of application of the Northern Alberta Railways Company for an Order extending the time within which it was exempted from complying with the requirements of Clause 423, paragraph (f) of the Board's Regulations for the Transportation of Explosives and Other Dangerous Articles, etc.
- 82510 Nov. 5—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Dugald, Manitoba.
- 82511 Nov. 5—Approving application of C.P.R. to operate its trains, etc., over private siding serving Dominion Fruit Limited, Estevan, Saskatchewan.
- 82512 Nov. 6—Authorizing the City of Fort William to divert Kingsway Road to connect with Arthur Street at a point east of the right-of-way of the C.N.R.
- 82513 Nov. 6—Approving abandonment of operation of the Sydney and Louisbury Railway Company's Morien, Birch Grove and Reserve Branches, Nova Scotia.
- 82514 Nov. 6—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Quiball, Ontario.
- 82515 Nov. 6—Permitting the removal of slow order at crossing near the C.N.R. tracks near Dorchester, Ontario.
- 82516 Nov. 6—Permitting the removal of slow order at the crossing of the highway and the Esquimalt and Nanaimo Railway south of Chemainus, B.C.
- 82517 Nov. 6—Restricting the speed of C.P.R. trains at crossing of 104th Avenue, between 110th and 111th Streets, Edmonton, Alberta.
- 82518 Nov. 6—Approving proposed location of connecting pipe lines, etc., of Shell Oil Company of Canada Limited, near C.N.R. tracks at Victoriaville, Quebec.
- 82519 Nov. 6—Approving Supplement No. 3 to Traffic Agreement between The Bell Telephone Company of Canada and the La Tuque Telephone Company.
- 82520 Nov. 6—Approving revised Appendix "A", to Traffic Agreement dated December 14, 1951, between The Bell Telephone Company of Canada and the Orono Telephone Company Limited.
- 82521 Nov. 6—Authorizing the C.N.R. to make signal changes as shown on Plan No. 490/16AR4, dated July 19, 1953.
- 82522 Nov. 6—Approving proposed location of pipe lines and loading points of Imperial Oil Limited, near the tracks of The Toronto, Hamilton and Buffalo Railway Company at Hamilton, Ontario.
- 82523 Nov. 9—Approving proposed location of storage tanks, etc., near C.P.R. tracks at Halifax, Nova Scotia.
- 82524 Nov. 9—Authorizing the C.N.R. to operate their trains through portion of the Montreal Terminals interlocking, Zone 10, Quebec.
- 82525 Nov. 9—Approving proposed location of pipe lines, etc., of Imperial Oil Limited near C.N.R. tracks at Dugald, Manitoba.
- 82526 Nov. 9—Approving proposed location of pipe lines, etc., near C.P.R. tracks of Imperial Oil Limited, at Golden Prairie, Saskatchewan.
- 82527 Nov. 9—Permitting the removal of slow order at the crossing of the highway and the Esquimalt and Nanaimo Railway, north of the station at Craig, British Columbia.
- 82528 Nov. 10—Approving proposed location of storage tanks, etc., of The British American Oil Company Limited, at Vanderhoof, British Columbia.
- 82529 Nov. 10—Permitting the removal of slow order at the crossing of Highway No. 9, first crossing west of Munson Junction, Alberta.
- 82530 Nov. 11—Approving revised Appendix "A", to Traffic Agreement, between the Bell Telephone Company of Canada and the Eastern Townships Telephone Company.
- 82531 Nov. 10—Approving Supplement No. 1, to Service Station Contract, between the Bell Telephone Company of Canada and The Gore Mutual Telephone Company Limited.
- 82532 Nov. 10—Permitting the removal of slow order at C.P.R. crossing near Abbey, Saskatchewan.

- 82533 Nov. 10—Approving Traffic Agreement, dated December 27, 1951, between the Bell Telephone Company of Canada and the Telephone System of the Mun. of the Village of Magnetawan.
- 82534 Nov. 10—Approving Supplement No. 1, to Service Station Contract, between the Bell Telephone Co. and The South Colchester Telephone Company Limited.
- 82535 Nov. 10—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under Section 3.
- 82536 Nov. 10—Approving proposed location of storage tanks, etc., of Bottled Gas Limited, near C.P.R. tracks at False Creek Yard, Vancouver, British Columbia.
- 82537 Nov. 12—Authorizing the Township of Waters, Ontario, to construct and maintain, at its own expense, the highway across the railway of the C.P.R. at mileage 9·97, Webbwood Subdivision.
- 82538 Nov. 12—Approving proposed location of storage tanks, etc., near the C.N.R. tracks at Oakville, Ontario.
- 82539 Nov. 12—Approving proposed location of storage tanks, etc., of John L. Baker, near C.P.R. tracks at Lindsay, Ontario.
- 82540 Nov. 12—Restricting the speed of C.N.R. trains, etc., at first crossing east of Trenton Junction, Ontario.
- 82541 Nov. 12—Approving proposed location of storage tanks, etc., near C.N.R. tracks, at Eastern Passage, Nova Scotia.
- 82542 Nov. 12—Requiring that all switching movements over crossing of Adelaide Street and C.N.R. in the City of London, Ontario, be flagged by a member of the train crew.
- 82543 Nov. 12—Permitting the removal of slow order at C.P.R. crossing of Dundas Street in the Town of Islington, Ontario.
- 82544 Nov. 13—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near C.P.R. tracks at Wynward, Saskatchewan.
- 82545 Nov. 13—Approving proposed location of storage tanks, etc., near C.P.R. tracks at Grayson, Saskatchewan.
- 82546 Nov. 13—Approving proposed location of storage tanks, etc., near C.P.R. tracks at Lanigan, Saskatchewan.
- 82547 Nov. 13—Permitting removal of slow order near C.N.R. crossing west of the station in the Village of St. Gregoire, Quebec.
- 82548 Nov. 13—Authorizing the Quebec Department of Roads to divert a portion of the highway connecting Vermont Road No. 105 and Quebec Road No. 52, in the Township of Sutton, County of Brome, P.Q.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, December 15, 1953

No. 18

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 82659

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 48:

File No. 40994-37

MONDAY, the 30th day of November, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MacPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 48, with the addition of Valora, Ontario to paragraph c(1) of the proposed Supplement, on file with the Board under file No. 40994-37, be, and it is hereby, approved, and that the date as from which the said Supplement No. 3 shall be deemed to have become operative is hereby fixed as October 26, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 82660

In the matter of Agreed Charge between certain railway companies and The British American Oil Company, Limited, Canadian Oil Companies, Limited, Cities Service Oil Company, Limited, Imperial Oil Limited, McColl-Frontenac Oil Company, Limited, Shell Oil Company of Canada, Limited and The White Star Refining Company, Limited, on petroleum products as therein specified in carloads, in tank cars only, from refineries and marine terminals in Ontario (also Hull and Hull West, Quebec) to points in the Province of Ontario (also Hull and Hull West, Quebec), approved by Order No. 59568, dated August 29, 1940:

File No. 40994.3

MONDAY, the 30th day of November, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*F. M. MACPHERSON, *Commissioner.*

Whereas Canadian Petrofina Limited has made application under subsection (8) of section 32 of the Transport Act, and represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products and has expressed its willingness to meet and comply with the provisions and conditions of the said Agreed Charge—

It is ordered that the agreed charges approved by the said Order No. 59568, dated August 29, 1940, with the increase authorized by Order No. 70480, dated April 8, 1948, be, and they are hereby, fixed for the transport by the said rail carriers of petroleum products as described in paragraph B of the said Agreed Charge for Canadian Petrofina Limited from all shipping points specified in paragraph C(1) to destinations specified in paragraph C(2) of the said Agreed Charge, subject to and upon the terms and conditions contained in the said Agreed Charge; and the Board hereby appoints the date of this Order as the date on which the said charges fixed as aforesaid are to come into operation.

HUGH WARDROPE,

Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
OCTOBER, 1953.

Railway Accidents	200	Killed 17	Injured 219
Highway Crossing Accidents	48	Killed 17	Injured 48
Total.....	248	Killed 34	Injured 267

	Killed	Injured
Passengers	—	50
Employees	4	155
Others	30	62
Total.....	34	267

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed Injured

NEW BRUNSWICK

- 1 Auto truck ran into side of train. Licence: Me. 10-202.

QUEBEC

- 1 Automobile drove onto crossing in front of backing train and was struck.
Licence: Que. 28-744.
- 4 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. 28853.
- 2 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. M.D.-258.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 311-432.
- 3 Trailer truck drove onto crossing in front of approaching train and was struck.
Licence: Que. L-6857.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-89159.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. T-18176.
- 1 — Auto truck ran into side of train. Licence not given.
- 1 Automobile ran into side of standing train. Licence: Que. 85-385.
- 1 Station wagon ran into side of train. Licence: Que. F-83570.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. L-11688.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. T-5548.
- 1 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Que. 238-820.
- 1 — Automobile ran into side of train. Licence: Que. 360-777.
- 1 Automobile drove onto crossing in front of car being pushed over crossing and was struck. Licence: Que. 282-250.

ONTARIO

- 2 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. HH-95.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. J-5065.
- 1 Automobile ran into side of train. Licence: Ont. 5A-534.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. W-5325.
- 1 Automobile ran into side of train. Licence: Ont. 1449-Y.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 4-H-536.
- 1 1 Auto truck ran into side of train. Licence: Ont. 27146-B.
- 2 Automobile ran into side of standing train. Licence: Ont. LV-24.
- 1 Auto truck ran into side of train. Licence not given.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 35-X-63.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-36630.
- 1 Automobile drove onto crossing in front of backing engine and was struck.
Licence not given.
- 1 Auto truck drove onto crossing in front of backing engine and was struck.
Licence: Ont. 63622.
- 1 Automobile ran into side of train. Licence: Ont. V-5643.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 67-W-36.
- 1 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 12-B-28.
- 1 Auto truck ran into side of train. Licence: Ont. 12199-B.
- 1 — Tractor trailer truck ran into side of train. Licence: Ont. 6882-C.
- 2 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. S-8-96.

Killed Injured

MANITOBA

- 1 Station wagon ran into side of train. Licence: Man. 7-C-133.
- 1 Automobile ran into side of standing train. Licence: Man. 9-G-75.

SASKATCHEWAN

- 1 Automobile drove onto crossing in front of caboose being shoved over crossing and was struck. Licence: Sask. 154-530.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-74728.
- 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. F-39125.
- 1 Auto truck drove onto crossing in front of approaching train and was struck. Licence: Sask. C-13831.

ALBERTA

- 1 — Pedestrian walked onto crossing in front of approaching train and was struck.
- 1 Auto truck ran into side of standing train. Licence: Alta. X-84995.
- 1 Auto truck ran into side of train. Licence not given.
- 1 Auto truck ran into side of standing car. Licence: Alta. X-82929.

BRITISH COLUMBIA

- 2 Automobile ran into side of train. Licence: B.C. 68-597.
- 1 — Automobile ran into side of train. Licence: B.C. 38-876.
- 2 Automobile drove onto crossing in front of approaching train and was struck. Licence: B.C. 72-798.

Of the 48 accidents at highway crossings, 43 occurred at unprotected crossings, and 5 at protected crossings. Seventeen occurred after sunrise and thirty-one after sunset.

OTTAWA, Ont., November 30, 1953.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82549 Nov. 13—Permitting the removal of slow order at C.P.R. crossing near station at Soulanges, Quebec.
- 82550 Nov. 13—Approving proposed location of storage tanks, etc., of St. Maurice Chemicals Limited, near C.N.R. tracks at Varennes, Quebec.
- 82551 Nov. 16—Authorizing the C.N.R. to construct a siding across Highway No. 16 in the Municipal District of Strathcona No. 83, Alberta.
- 82552 Nov. 16—Authorizing the C.P.R. to construct a proposed track connection across Barnett Avenue, Lacombe, Alberta.
- 82553 Nov. 16—Permitting the removal of slow order at C.N.R. crossing of First Street, London, Ontario.
- 82554 Nov. 16—Approving revised plan showing protection to be installed at highway crossing at the main entrance to the plant of Dow Chemical of Canada Limited, at Sarnia, Ontario.
- 82555 Nov. 16—Approving Supplement to Traffic Agreement between the Bell Telephone Company and the Davis Telephone System.
- 82556 Nov. 16—Authorizing the Quebec Department of Roads to widen Metabetchouan Road where it crosses the C.N.R., in the County of Roberval, Quebec.
- 82557 Nov. 16—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Canadian Freight Association under sections 3 and 9.
- 82558 Nov. 13—In the matter of the application of the Ontario Department of Highways for an Order authorizing the construction of Highway No. 11 across the C.N.R. by means of an overhead bridge, in the Township of Orillia, Ontario.
- 82559 Nov. 16—Authorizing the Saskatchewan Department of Highways and Transportation to construct the highway across the C.N.R. at mileage 59.5 Tisdale Subdivision, Saskatchewan.
- 82560 Nov. 16—Authorizing the Saskatchewan Department of Highways and Transportation to construct Provincial Highway No. 3 across the C.N.R. at mileage 59.63 Chelan Subdivision, Saskatchewan.
- 82561 Nov. 16—Permitting the removal of slow order at the C.P.R. crossing of Park Street, Regina, Saskatchewan.
- 82562 Nov. 16—Restricting the speed of trains at C.N.R. crossing of Third Avenue, Regina, Saskatchewan.
- 82563 Nov. 16—Approving under the Maritime Freight Rates Act toll published in tariffs filed by the Dominion Atlantic Railway Company under section 9.
- 82564 Nov. 16—Permitting the removal of slow order at C.N.R. crossing of St. David's Road, Merriton, Ontario.
- 82565 Nov. 16—Requiring the C.P.R. to install protection at crossing of Highway No. 1, County of Saint John, New Brunswick.
- 82566 Nov. 17—Amending Order No. 76224 dated March 8, 1951, in the matter of application of the Quebec Department of Roads authorizing the construction of Highway No. 53 across the C.N.R. and under the C.N.R. bridge at Etchemin River, Parish of St. Malachie, Quebec.
- 82567 Nov. 17—Authorizing the United Townships of Ditchfield and Spaulding to construct the highway across the C.P.R. at mileage 115.80 Moosehead Subdivision, Quebec.
- 82568 Nov. 17—Relieving the C.P.R. from erecting cattle guards at certain crossings in the Province of Manitoba.
- 82569 Nov. 17—Authorizing the City of Fort William to construct a pedestrian crossing across the C.N.R. between Moodie and Isabella Streets, Fort William, Ont.
- 82570 Nov. 17—Rescinding Order No. 82365, dated October 16, 1953, which authorized the C.N.R. to operate the bridge at mileage 14.8 Nachako Subdivision, British Columbia.
- 82571 Nov. 17—In the matter of the application of the C.N.R. for approval of one quart size vapourizing liquid fire extinguishers of the stored pressure type for use on passenger equipment.
- 82572 Nov. 17—Approving proposed location of storage tank of Preeceville Co-operative Association Limited, near the C.N.R. tracks at Preeceville, Saskatchewan.
- 82573 Nov. 17—Authorizing the C.N.R. to make changes to the signal circuits at the automatic interlocker at East Edmonton, Alberta.
- 82574 Nov. 17—Authorizing the C.P.R. to make signal changes at the interlocking at the crossing of its railway, the C.N.R. and the junction of the railway of the Quebec Central Railway Company at Lennoxville, Quebec.
- 82575 Nov. 17—Authorizing the C.N.R. to install protection at crossing near Winfield, B.C.
- 82576 Nov. 17—Approving under the Maritime Freight Rates Act toll published in supplement to tariff filed by the Dominion Atlantic Railway Company under section 8.

- 82577 Nov. 17—Permitting the removal of slow order at C.N.R. crossing west of the shelter at Robinson, Alberta.
- 82578 Nov. 17—In the matter of the approval of plan submitted to the C.N.R. by Quick Flame Gas Limited, showing the proposed location of storage tanks, etc., at Ville Jacques Cartier, Quebec.
- 82579 Nov. 17—Permitting the removal of slow order at C.P.R. crossing near roundhouse in the City of Drummondville, Quebec.
- 82580 Nov. 17—Permitting the removal of slow order at C.N.R. crossing west of the station at Unity, Saskatchewan.
- 82581 Nov. 17—Permitting the removal of slow order at C.P.R. crossing near station at Carlyle, Saskatchewan.
- 82582 Nov. 18—Authorizing the Canadian Northern Railway to construct a spur to serve Security Storage Company Limited across St. James Street, Winnipeg, Man.
- 82583 Nov. 18—Authorizing the C.N.R. to operate over the siding serving Wallace Warehouse & Cartage Limited at Moncton, New Brunswick.
- 82584 Nov. 18—Authorizing the Town of Wallaceburg to construct Dauw Avenue across the Chesapeake and Ohio Railway Company in the Town of Wallaceburg, Ontario.
- 82585 Nov. 18—Permitting the removal of slow order at C.P.R. crossing north of station at Joliette, Quebec.
- 82586 Nov. 19—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.N.R. under section 3.
- 82587 Nov. 19—Rescinding Order No. 82370 dated October 16, 1953, which authorized the C.N.R. to operate the bridge at mileage 8.3 Bulkley Subdivision, British Columbia.
- 82588 Nov. 19—Authorizing the Canadian Northern Railway Company to open for the carriage of freight traffic its connecting line of railway between its old Strathecona-Camrose Branch near Terminal Junction and mileage 4.4 Camrose Subdivision of the C.N.R., Alberta.
- 82589 Nov. 19—Authorizing The Toronto Harbour Commissioners to construct three sidings to serve the lands leased to Associated Quarries & Construction Limited in the vicinity of Keating and Leslie Streets, Toronto, Ontario.
- 82590 Nov. 19—Permitting the removal of slow order at C.P.R. crossing near station at Beeton, Ontario.
- 82591 Nov. 19—Permitting the removal of slow order at C.N.R. crossing of highway No. 5 in the Town of Dauphin, Manitoba.
- 82592 Nov. 19—Approving proposed location of storage tanks, etc., of Electric Reduction Company near the C.N.R. tracks at Varennes, Quebec.
- 82593 Nov. 19—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Minnedosa, Manitoba.
- 82594 Nov. 19—Restricting the speed of trains at C.P.R. crossing of St Maurice Street, City of Trois-Rivieres, Quebec.
- 82595 Nov. 19—Approving proposed location of connecting pipe lines and additional tank car loading racks of Imperial Oil Limited, near the C.P.R. tracks at Regina, Saskatchewan.
- 82596 Nov. 19—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Cartwright, Manitoba.
- 82597 Nov. 19—Approving proposed location of storage tank, etc., of Shell Oil Company of Canada Limited, near the C.N.R. tracks near Ottawa, Ontario.
- 82598 Nov. 19—Permitting the removal of slow order at C.P.R. crossing of Provincial Highway No 73, west of station at Harrietsville, Ontario.
- 82599 Nov. 19—Requiring the C.N.R. to install protection at crossing of Highway No. 3, (White Point Road), Liverpool, Nova Scotia.
- 82600 Nov. 19—Restricting the speed of C.N.R. trains at crossing of Ellice Avenue, St. James, Manitoba.
- 82601 Nov. 19—Amending Order No. 81994, dated August 17, 1953, which authorized protection at C.N.R. crossing west of station at Ste. Florence, Quebec.
- 82602 Nov. 19—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Morris, Manitoba.
- 82603 Nov. 19—Permitting the removal of slow order at C.N.R. crossing first public crossing west of the old Maisonneuve station in the City of Montreal, Quebec.
- 82604 Nov. 19—Restricting the speed of C.P.R. trains at North Street crossing, Perth, Ont.

The Board of
Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

January 1, 1954

No. 19

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 82687

In the matter of the application of the Canadian Freight Association, dated October 29, 1953, under subsection 11 of section 32 of The Transport Act, on behalf of railways party to Agreed Charge Tariff C.T.C. (A.C.) No. 8 for approval of Supplement No. 3 to the said Tariff:

File No. 40994·8

FRIDAY, the 4th day of December, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

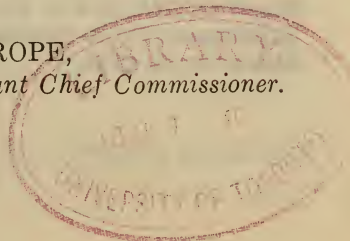
A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the shipper to whose goods the said charge is applicable is prepared to agree to the said modifications—

It is ordered that the Board hereby continues its approval of Agreed Charge Tariff C.T.C. (A.C.) No. 8 subject to the modifications set out in proposed Supplement No. 3 thereto on file with the Board under file No. 40994·8 effective December 1, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.



ORDER No. 82688

In the matter of the application of the Canadian Freight Association, dated October 29, 1953, under subsection 11 of section 32 of The Transport Act, on behalf of railways party to Agreed Charge Tariff C.T.C. (A.C.) No. 10, for approval of Supplement No. 3 to the said Tariff:

File No. 40994-10

FRIDAY, the 4th day of December, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the shipper to whose goods the said charge is applicable is prepared to agree to the said modifications—

It is ordered that the Board hereby continues its approval of Agreed Charge Tariff C.T.C. (A.C.) No. 10 subject to the modifications set out in proposed Supplement No. 3 on file with the Board under file No. 40994-10, effective December 1, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82689

In the matter of the application of the Canadian Freight Association, dated October 29, 1953, under subsection 11 of section 32 of The Transport Act, on behalf of railways party to Agreed Charge Tariff C.T.C. (A.C.) No. 19, for approval of Supplement No. 4 to the said Tariff:

File No. 40994-6

FRIDAY, the 4th day of December, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the shipper to whose goods the said charge is applicable is prepared to agree to the said modifications—

It is ordered that the Board hereby continues its approval of Agreed Charge Tariff C.T.C. (A.C.) No. 19 subject to the modifications set out in proposed Supplement No. 4 thereto on file with the Board under file No. 40994-6, effective December 1, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82690

In the matter of the application of the Canadian Freight Association; dated October 29, 1953, under subsection 11 of section 32 of The Transport Act, on behalf of railways party to Agreed Charge Tariff C.T.C. (A.C.) No. 7 for approval of Supplement No. 4 to the said Tariff:

File No. 40994·7

FRIDAY, the 4th day of December, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the shipper to whose goods the said charge is applicable is prepared to agree to the said modifications—

It is ordered that the Board hereby continues its approval of Agreed Charge Tariff C.T.C. (A.C.) No. 7 subject to the modifications set out in proposed Supplement No. 4 thereto on file with the Board under file No. 40994·7, effective December 1, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 82693

In the matter of the application of the Canadian Freight Association dated October 29, 1953, under subsection 11 of section 32 of the Transport Act on behalf of railways party to Agreed Charge Tariff C.T.C. (A.C.) No. 12, for approval of Supplement No. 3 to the said Tariff:

File No. 40994·5

FRIDAY, the 4th day of December, A.D. 1953.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Whereas the shippers to whose goods the said charge is applicable are prepared to agree to the said modifications—

It is ordered that the Board hereby continues its approval of Agreed Charge Tariff C.T.C. (A.C.) No. 12 subject to the modifications set out in proposed Supplement No. 3 thereto on file with the Board under file No. 40994·5, effective December 1, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ERRATUM

Board's Judgments, Orders, Regulations and Rulings, Vol. XLIII, November 15, 1953, No. 16, Page 244, summarizes Order No. 82405, October 21, as follows:
82405 Oct. 21—Restricting the speed of C.P.R. trains at mileage 24·0 Estevan Subdivision, Manitoba.

This should read:

82405 Oct. 21—Permitting the removal of slow order at C.P.R. crossing at mileage 24·0 Estevan Subdivision, Manitoba.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82605 Nov. 19—Authorizing the C.N.R. to operate their engines, cars and trains over the tracks from Mileage 130.07 and Mileage 130.39 Alexandria Subdivision to Mileage 5.25 Hurdman Subdivision, Ontario.
- 82606 Nov. 19—Authorizing the C.N.R. to operate through the interlocking at crossing of C.P.R. and Canadian National Railways Federal District Commission's connection from Hawthorne to Wass, Ontario.
- 82607 Nov. 20—Authorizing the C.P.R. to operate over the overhead bridge at Mileage 1.6 Indian Head Subdivision, Saskatchewan.
- 82608 Nov. 20—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks at Glenboro, Manitoba.
- 82609 Nov. 20—Approving proposed location of storage tanks, etc., of Alexander G. Bowie, near C.N.R. tracks at Skeena Crossing, B.C.
- 82610 Nov. 20—Authorizing the C.N.R. to remove the station shelter at Ess Creek, Ontario.
- 82611 Nov. 20—Approving plan showing changes made in the block signal layout at Mileage 85 Maple Creek Subdivision, C.P.R., in the Province of Saskatchewan.
- 82612 Nov. 20—Approving protection as installed at crossing of C.N.R. at Highway No. 17 near Jelly, Ontario.
- 82613 Nov. 20—Approving revised plan showing protection installed at C.P.R. crossing near Hale Station, Brighton, New Brunswick.
- 82614 Nov. 20—Authorizing the Nisku Products Pipe Line Company Limited to construct three products pipe lines under right of way of the Trans Mountain Oil Pipe Line Company in the Northeast quarter of Section 24-52-24W4M, Alberta.
- 82615 Nov. 20—Approving operation of C.P.R. trains over a private siding extension serving the Regina Cartage and Storage Company Limited, Regina, Saskatchewan.
- 82616 Nov. 20—Approving plan showing protection as installed at crossing of railway of the C.P.R. and highway near Village of River de Chute, N.B.
- 82617 Nov. 20—Amending Order No. 82449, dated October 29, 1953, in the matter of application of Imperial Oil Limited for leave to construct a production flow line under the pipe line of Interprovincial Pipe Line Company in the S.E.¼ Section 31-49-21W4M, Alberta.
- 82618 Nov. 20—Authorizing the C.P.R. to operate under the steel gallery at Mileage 125.82 Cascade Subdivision, B.C.
- 82619 Nov. 23—Approving proposed location of storage tanks, etc., of Wigle Propane Limited near N.Y.C. tracks at Essex, Ontario.
- 82620 Nov. 23—Authorizing the C.N.R. to install automatic block signal protection between Dauphin and North Junction, Manitoba.
- 82621 Nov. 23—Permitting the removal of slow order at C.N.R. crossing near Station at Drummond, N.B.
- 82622 Nov. 24—Permitting the removal of slow order at C.P.R. crossing of Finch Avenue, Emery, Ontario.
- 82623 Nov. 24—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited near the tracks of The Algoma Central and Hudson Bay Railway Company at Sault Ste. Marie, Ontario.
- 82624 Nov. 24—Approving under the Maritime Freight Rates Act tolls published in supplement to tariff filed by the C.N.R. under Sections 3 and 8.
- 82625 Nov. 24—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.P.R. tracks, Rosemary, Alberta.
- 82626 Nov. 24—Permitting the removal of slow order at C.P.R. crossing at Douglas Street, Sudbury, Ontario.
- 82627 Nov. 25—Approving location and details of freight and passenger shelter proposed to be erected by the Canadian Northern Pacific Railway Company (C.N.R.), at Barriere, B.C.
- 82628 Nov. 25—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and The Falkirk Telephone System.
- 82629 Nov. 25—Authorizing the Ontario Department of Highways to construct Highway No. 17 across the C.P.R. by means of an overhead bridge at Mileage 35.0 Webbwood Subdivision, Ontario.
- 82630 Nov. 25—Authorizing the Midland Railway Company of Manitoba to construct a spur track across Sargent Avenue, Winnipeg, Manitoba.
- 82631 Nov. 25—Permitting the removal of slow order at C.N.R. crossing at Gage Avenue, Hamilton, Ontario.
- 82632 Nov. 25—Restricting the speed of C.N.R. train at crossing of Exmouth Street, Sarnia, Ontario.
- 82633 Nov. 25—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 82634 Nov. 25—Authorizing the Canadian Northern Railway to maintain and operate a branch line of railway in the City of Winnipeg, Manitoba.
- 82635 Nov. 25—Approving Supplement to Service Station Contract between the Bell Telephone Company of Canada and the Fifth Line Telephone Company Limited.

- 82636 Nov. 25—Restricting the speed of C.P.R. trains at crossing of Agnes Street, Megantic, Quebec.
- 82637 Nov. 26—Approving proposed location of storage tanks, etc., of Canadian Oil Companies Limited near C.N.R. tracks at Cobourg, Ontario.
- 82638 Nov. 26—Authorizing the Toronto Harbour Commissioners to construct and maintain a siding to serve the lands of Canada Cement Company Limited, Toronto, Ontario.
- 82639 Nov. 26—Approving under the Maritime Freight Rates Act tolls published in Supplement to tariff filed by the C.F.A. to Sections 3 and 8.
- 82640 Nov. 26—Authorizing the Township of Mosa, Ontario, to construct a drainage ditch along the C.N.R. in Township of Mosa, Ontario.
- 82641 Nov. 26—Authorizing the C.N.R. to relocate the bridge over St. Antoine Creek at Mileage 7.16, Sorel Subdivision, to a point at Mileage 7.67, Sorel Subdivision in the Parish of St. Antoine de Longueuil, Province of Quebec.
- 82642 Nov. 26—Authorizing the Ontario Department of Highways to construct Highway No. 17 across the C.P.R. by means of an overhead bridge in the Township of Snider, Ontario.
- 82643 Nov. 26—Permitting the removal of slow order at C.N.R. crossing in the Town of Rimouski, Quebec.
- 82644 Nov. 26—Authorizing the New Brunswick Department of Public Works to construct its Highway across the C.P.R. in the County of York, Province of New Brunswick, at Mileage 56.78 and 57.11, Gibson Subdivision.
- 82645 Nov. 26—Permitting the removal of slow order at C.P.R. crossing and Wickstead Avenue, Leaside, Ontario.
- 82646 Nov. 26—Authorizing the Manitoba Department of Public Works, to construct Highway No. 18 across the C.P.R. in the Southeast quarter of Section 2-3-7W in the Province of Manitoba.
- 82647 Nov. 26—Authorizing the C.P.R. to construct a branch line of railway from Mileage 0.83 on the Applicant Company's Montreal and Ottawa Subdivision in Lot 462, 461 and 460 to a point in connection with the Applicant Company's Winchester Subdivision in Lot 460 all in Concession Anse de Vaudreuil, Quebec.
- 82648 Nov. 26—In the matter of application of the Canadian Freight Association for an order amending General Order No. 289, dated June 2, 1920 (form of Live Stock Contract).
- 82649 Nov. 27—In the matter of approval of plan No. 1870, dated October 19, 1950, submitted by the C.N.R. on behalf of the Department of National Defence showing the location of unloading facilities for the handling of Class II inflammable liquids at Pagwa, Ontario.
- 82650 Nov. 27—Permitting the removal of slow order at C.N.R. crossing and O'Brien Boulevard near station at Monklands, Quebec.
- 82651 Nov. 27—Restricting the speed of trains of the Vancouver and Lulu Island Railway at the first crossing west of the station at Brighthouse, Lulu Island, British Columbia.
- 82652 Nov. 27—Authorizing the Bell Telephone Company of Canada to construct certain lines of telephone upon certain highways in the Corporation of the Township of Harwich, Ontario.
- 82653 Nov. 27—Authorizing the Consumers' Co-Operative Refineries Limited to construct seven products lines and one electric conduit under and across the pipe line and right-of-way of Interprovincial Pipe Line Company in the S.W.¼ of Section 5-18-19W2M, Saskatchewan.
- 82654 Nov. 27—Authorizing the Corporation of the Township of Innisfill, Ontario, to improve the sight lines at the crossing of the highway of the C.N.R. at Mileage 55.5 Newmarket Subdivision.
- 82655 Nov. 30—Authorizing the C.P.R. to construct a private siding along lane in Block 201 between 8th and 10th Avenues, Swift Current, Saskatchewan.
- 82656 Nov. 30—Authorizing the Canadian Northern Railway Company to construct a branch line of railway in the City of Edmonton, Alberta.
- 82657 Nov. 30—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near C.N.R. tracks at St. John's, Newfoundland.
- 82658 Nov. 30—Approving under the Maritime Freight Rates Act tolls published in tariff filed by the C.F.A. under Sections 3 and 8.
- 82659 Nov. 30—In the matter of application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 48.
- 82660 Nov. 30—In the matter of agreed charges between certain railway companies and The British American Oil Company, Limited, Canadian Oil Companies, Limited, Cities Service Oil Company, Limited, Imperial Oil Limited, McColl-Fontenac Oil Company, Limited, Shell Oil Company of Canada, Limited and The White Star Refining Company, Limited on petroleum products as therein specified in carloads, from refineries and marine terminal in Ontario to points in the Province of Ontario.

- 82661 Nov. 30—Authorizing the C.N.R. to make revisions to the block signals in the Province of British Columbia, at Mileage 3.40 Ashcroft Subdivision.
- 82662 Nov. 30—Approving abandonment of operation of the C.P.R. line from a point on its Snowflake Subdivision near Windygates, Manitoba, to the International Border.
- 82663 Nov. 30—Authorizing the Toronto Harbour Commissioners to construct a siding to serve the lands being conveyed to The Hydro-Electric Power Commission of Ontario, on the north side of Unwin Avenue, Toronto, Ontario.
- 82664 Nov. 30—Approving proposed location of storage tanks, etc., of The British American Oil Company Limited, near C.N.R. tracks at Chicoutimi, Quebec.
- 82665 Dec. 1—Approving plan showing protection as installed at the crossing of C.N.R. at Ashland Avenue, London, Ontario.
- 82666 Dec. 1—Permitting the removal of slow order at C.P.R. crossing at 55th Avenue near station at Summerlea, Quebec.
- 82667 Dec. 1—Authorizing the C.P.R. to reconstruct the bridge over Sharbot Lake Narrows, at Mileage 57.28 Kingston Subdivision, Ontario.
- 82668 Dec. 1—Authorizing the Quebec Department of Roads to widen Lake St. Joseph Road across the C.N.R. in the Parish of St. Augustin, County of Portneuf, Quebec.
- 82669 Dec. 1—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of pipe lines, fence and addition to warehouse at Canora, Saskatchewan.
- 82670 Dec. 1—Authorizing the Bell Telephone Company of Canada to construct its line of telephone along certain highway in the Township of Chatham, County of Kent, Ontario.
- 82671 Dec. 1—Authorizing the Bell Telephone Company of Canada to construct certain lines of telephone along the highway in the Township of Chatham, Ontario.
- 82672 Dec. 1—Permitting the removal of slow order at C.P.R. crossing across the C.P.R. spur line serving Maple Leaf Milling Company Limited and 7th Avenue in the City of Medicine Hat, Alberta.
- 82673 Dec. 1—Permitting the removal of slow order at C.P.R. crossing near east siding switch at Kinivie, Mileage 43.6, Brooks Subdivision.
- 82674 Dec. 1—Permitting the removal of slow order at C.P.R. crossing west of station at Gull Lake, Saskatchewan.
- 82675 Dec. 1—Restricting the speed of trains over the crossing of Wentworth Street and the Esquimalt and Nanaimo Railway near station at Nanaimo, B.C.
- 82676 Dec. 2—Restricting the speed of C.N.R. trains at Townsend Street, Campbellford Subdivision, Peterborough, Ontario.
- 82677 Dec. 2—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 47, west of the station at Stouffville, Alberta.
- 82678 Dec. 2—In the matter of application of the Railway Association of Canada for approval of the Canadian Freight Commodity Statistics Classification.
- 82679 Dec. 2—Permitting the removal of slow order at C.N.R. crossing near station at Wildwood, Alberta.
- 82680 Dec. 2—Authorizing the C.P.R. to construct its railway across University Avenue, 76th Avenue and 103rd Street, Edmonton, Alberta.
- 82681 Dec. 2—Authorizing the C.N.R. to operate their trains through the interlocking at the crossing of their railways at Wakaw, Saskatchewan.
- 82682 Dec. 3—Permitting the removal of slow order at C.P.R. crossing west of the west switch at Willingdon siding and Highway No. 45, Willingdon Subdivision, Alberta.
- 82683—Dec. 3—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 82684 Dec. 3—Authorizing the Quebec Central Railway Company to construct reinforced concrete box culvert over Medore Brook at Mileage 68.07, Quebec Subdivision on the diversion of the Applicant Company's line of railway in the Township of Thetford, Quebec.
- 82685 Dec. 3—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Minister of National Defence.
- 82686 Dec. 4—Authorizing the C.P.R. to operate their trains through the interlocking at Whittier Junction near Winnipeg, Manitoba.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

January 15, 1954

No. 20

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 82797

MONDAY, the 28th day of December, A.D. 1953.

In the matter of the application of Shell Oil Company of Canada, Limited, Toronto, Ontario, for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 45 as approved by the Board:

File No. 40994-34

HUGH WARDROPE, *Asst. Chief Commissioner.*

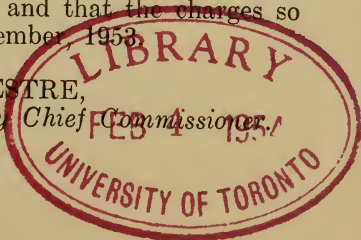
A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*

H. B. CHASE, *C.B.E., Commissioner.*

Whereas the Shell Oil Company of Canada, Limited has made application under section 35 of the Transport Act, and has represented to the Board that its business will be unjustly discriminated against unless a similar charge be fixed for the transport of its petroleum products from and to stations and/or places as set out in Agreed Charge Tariff C.T.C. (AC) No. 45, as approved by the Board; and has expressed its willingness to meet and comply with the provisions and conditions of the said tariff—

It is ordered that charges be and they are hereby fixed, the same as agreed charges published in Agreed Charge Tariff C.T.C. (AC) No. 45 for the transport, by the railway companies parties thereto, of petroleum products as described in paragraph B of the said tariff, shipped by Shell Oil Company of Canada, Limited from stations and/or places named in paragraph C(1) to stations and/or places as set out in paragraph D of the said tariff, subject to and upon the terms and conditions contained in the said tariff; and that the charges so fixed shall come into operation on the 3rd day of December, 1953.

A. SYLVESTRE,
Deputy Chief Commissioner.



ORDER No. 82798

MONDAY, the 28th day of December, A.D. 1953.

In the matter of the application of the Canadian Freight Association dated November 3, 1953, for approval of Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 45:

File No. 40994·34

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*

H. B. CHASE, *C.B.E., Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 45, be, and it is hereby, approved; and that the date from which the said Supplement No. 2 shall become operative is hereby fixed as November 4, 1953.

A. SYLVESTRE,
Deputy Chief Commissioner.

ORDER No. 82799

MONDAY, the 28th day of December, A.D. 1953.

In the matter of the application of the Canadian Freight Association dated November 18, 1953, for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 45:

File No. 40994·34

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*

H. B. CHASE, *C.B.E., Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 45, be, and it is hereby, approved; and that the date from which the said Supplement No. 3 shall become operative is hereby fixed as November 20, 1953.

A. SYLVESTRE,
Deputy Chief Commissioner.



ORDER No. 82821

MONDAY, the 4th day of January, A.D. 1954.

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 54:

File No. 40994·46

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 54 on file with the Board under file No. 40994·46, be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as November 26, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 82820

MONDAY, the 4th day of January, A.D. 1954.

In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 53:

File No. 40994·39

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, *Q.C., Deputy Chief Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 53 on file with the Board under file No. 40994·39, be, and it is hereby, approved; and that the date as from which the said Supplement No. 1 shall be deemed to have become operative is hereby fixed as November 26, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
NOVEMBER, 1953

Railway Accidents	189	Killed	7	Injured	192
Level Crossing Accidents	53	Killed	13	Injured	55
Total	242		20		247
		<i>Killed</i>		<i>Injured</i>	
Passenger	—	—	—	20	—
Employees	—	—	—	160	—
Others	20	—	—	67	—
Total	20	—	—	247	—

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

<i>Killed</i>	<i>Injured</i>		NOVA SCOTIA
—	1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
			NEW BRUNSWICK
2	—	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 10454.
			QUEBEC
1	—	—	Pedestrian walked onto crossing in front of approaching train and was struck.
1	—	—	Pedestrian passed under gates and onto crossing in front of approaching train and was struck.
—	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Que. 10-9228.
—	2	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Que. 239-391.
—	2	—	Automobile ran into side of train. Licence: Que. 368-678.
—	1	—	Automobile ran into side of train. Licence not given.
			ONTARIO
—	1	—	Automobile ran into side of train. Licence: Ont. R-6717.
1	—	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 5319-U.
—	1	—	Pedestrian walked onto crossing in front of approaching train and was struck.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 2-T-387.
—	1	—	Automobile ran into side of train. Licence: Ont. 5089-R.
—	1	—	Auto truck drove onto crossing in front of approaching train and was struck. Licence: Ont. 76564-B.
—	1	—	Automobile ran into side of train. Licence not given.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence not given.
—	1	—	Automobile drove onto crossing in front of backing engine and was struck. Licence not given.
—	1	—	Automobile ran into side of train. Licence: Ont. 7072.
—	1	—	Auto bus drove onto crossing and was struck by track motor car. Licence not given.
—	2	—	Automobile ran into side of train. Licence: Ont. 5734-R.
—	2	—	Automobile ran into backing train on crossing. Licence: Ont. 610-K.
—	1	—	Automobile ran into side of train. Licence: Ont. 101-D-6.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. CJ-652.
1	—	—	Automobile ran into side of train. Licence: Ont. Z-9971.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. K-5715.
—	2	—	Automobile ran into side of train. Licence: Ont. Y-9062.
—	1	—	Automobile ran into side of train. Licence: Ont. F-5062.
—	1	—	Automobile drove onto crossing in front of approaching train and was struck. Licence: Ont. 388-T-7.

Killed Injured

MANITOBA

- 2 Automobile ran into side of train. Licence not given.
- 1 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 6-T-838.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 1-T-227.
- 1 Automobile ran into side of train. Licence: Man. 2-A-413.

SASKATCHEWAN

- 1 Automobile ran into side of train. Licence: Sask. 27-079.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Sask. 35-713.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. F-69-489.
- 1 — Automobile ran into side of train. Licence not given.
- 2 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. E-6-808.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Sask. C-9189.

ALBERTA

- 1 Auto truck ran into side of train. Licence not given.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. C-52595.
- 4 Automobile ran into side of train. Licence: Alta. 37-T-70.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 1-C-485.
- 1 Automobile ran into side of train. Licence: Alta. 72-O-87.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. E-23-842.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. F-62500.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. F-39202.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. CV-40372.
- 1 Automobile ran into engine backing over crossing. Licence: Que. 44-797.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. PS-10831.

BRITISH COLUMBIA

- 1 Pedestrian walked onto crossing in front of approaching train and was struck.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. P-3-230.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. C-83-115.
- 1 Auto taxi ran into side of train. Licence: B.C. Y-162.

Of the 53 accidents at highway crossings, 43 occurred at unprotected crossings, and 10 at protected crossings. Twenty-five occurred after sunrise and twenty-eight after sunset.

Ottawa, Ont., January 4, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82687 Dec. 4—In the matter of the application of the Canadian Freight Association on behalf of railways party to Agreed Charge Tariff C.T.C. (AC) No. 8, for approval of Supplement No. 3 to the said Tariff.
- 82688 Dec. 4—In the matter of the application of the Canadian Freight Association on behalf of railways party to Agreed Charge Tariff C.T.C. (AC) No. 10, for approval of Supplement No. 3 to the said Tariff.
- 82689 Dec. 4—In the matter of the application of the Canadian Freight Association on behalf of railways party to Agreed Charge Tariff C.T.C. (AC) No. 19, for approval of Supplement No. 4 to the said Tariff.
- 82690 Dec. 4—In the matter of the application of the Canadian Freight Association on behalf of railways party to Agreed Charge Tariff C.T.C. (AC) No. 7, for approval of Supplement No. 4 to the said Tariff.
- 82691 Dec. 4—Restricting the speed of trains at crossing of Sir Wilfrid Laurier Boulevard and the railway of the Montreal and Southern Counties Railway Company in the City of St. Lambert, P.Q.
- 82692 Dec. 4—In the matter of the application of the Beaconsfield Heights Association, Beaconsfield, P.Q., for an Order authorizing the C.N.R. to widen and improve the approaches at the crossing of their railway and St. Charles Road in the Town of Beaconsfield, P.Q.
- 82693 Dec. 4—In the matter of the application of the Canadian Freight Association on behalf of railways party to Agreed Charge Tariff C.T.C. (AC) No. 12, for approval of Supplement No. 3 to the said Tariff.
- 82694 Dec. 7—In the matter of approval of plan submitted to the C.N.R. by Canada Paper Company, showing the proposed location of pipe lines, storage tanks etc. at Windsor Mills, P.Q.
- 82695 Dec. 7—Authorizing the Ontario Department of Highways to construct a highway across the right-of-way of the C.N.R. at mileage 18.97 Irondale Subdivision.
- 82696 Dec. 7—Permitting the removal of slow order at C.P.R. crossing near station at Montreal West, province of Quebec.
- 82697 Dec. 7—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing proposed location of storage tanks etc., at Unity, Saskatchewan.
- 82698 Dec. 7—Relieving the C.P.R. from erecting cattleguards at certain crossings on its Estevan Subdivision, in the province of Saskatchewan.
- 82699 Dec. 7—In the matter of the application of Imperial Oil Limited, for an Order authorizing the construction of a private road across the right-of-way of the Interprovincial Pipe Line Company in the S.W. $\frac{1}{4}$ of Section 29, Twp. 49, Range 21, West Fourth Meridian, in the province of Alberta.
- 82700 Dec. 7—Authorizing the C.P.R. to install automatic block signals from mileage 119.4 to mileage 125.2 Keewatin Subdivision, province of Ontario.
- 82701 Dec. 8—Authorizing the C.P.R. to construct a temporary road crossing by means of an overhead bridge at mileage 301.88 Oshawa Subdivision, in the province of Ontario.
- 82702 Dec. 8—In the matter of approval of plan submitted by the C.N.R. showing proposed location of service tank etc., at Melville, Saskatchewan.
- 82703 Dec. 8—Authorizing the Ontario Department of Highways to construct a highway across the C.N.R. near Atikokan, Ontario.
- 82704 Dec. 8—In the matter of the application of the Village of Brooklands, in the province of Manitoba, for an Order authorizing the installation of protection at the crossing of the railway of the Canadian Pacific Railway Company at mileage 3.64 Carberry Subdivision, the Canadian National Railways at mileage 5.74 Oak Point Subdivision, and Rosser Road, in the village of Brooklands, province of Manitoba.
- 82705 Dec. 8—In the matter of filing of tariffs by The Bell Telephone Company of Canada.
- 82706 Dec. 8—Authorizing the C.P.R. to operate its engines, cars and trains over the subway at mileage 4.37 Park Avenue Subdivision, Quebec.
- 82707 Dec. 8—Permitting the removal of slow order at C.P.R. crossing east of the station at St. Martin Junction, P.Q.
- 82708 Dec. 8—Authorizing the C.P.R. to construct a temporary track diversion at mileage 4.85 Winchester Subdivision, as part of the construction of the Côte de Liesse Road subway, in the Town of Dorval, P.Q.
- 82709 Dec. 8—In the matter of the application of the Canadian Petrofina Limited of Montreal, P.Q., for a fixed charge the same as Agreed Charge tariff C.T.C. (AC) No. 55 as approved by the Board.
- 82710 Dec. 8—Approving under the Maritime Freight Rates Act, certain tariffs filed by the C.N.R. under Section 3.

- 82711 Dec. 9—Approving proposed location of storage tank etc., of F. Hyde and Company, for the handling and storage of inflammable liquids Class II, near the tracks of the C.N.R. at St. Thomas, Ontario.
- 82712 Dec. 9—Authorizing the C.N.R. to construct a bridge over the Okanagan River, in the province of British Columbia.
- 82713 Dec. 9—Restricting the speed of trains at crossing of the C.P.R. and Monaghan Road, Peterborough, Ontario.
- 82714 Dec. 9—Authorizing the C.P.R. to construct a branch line of railway at Keyes, Manitoba.
- 82715 Dec. 9—Restricting the speed of trains across Elgin Street and the railway of the New York Central Railroad Company, St. Thomas, Ontario.
- 82716 Dec. 9—Approving under the Maritime Freight Rates Act, tolls published in supplements to tariffs, filed by the Dominion Atlantic Railway Company under Section 8.
- 82717 Dec. 10—Authorizing the C.P.R. to make alterations and additions to the wharf in Nanaimo Harbour, Nanaimo, B.C.
- 82718 Dec. 10—In the matter of changes in the rate grouping of certain telephone exchanges of the British Columbia Telephone Company.
- 82719 Dec. 10—Approving under the Maritime Freight Rates Act, tolls published in Tariff filed by Dominion Atlantic Railway Co., under sections 3 and 8.
- 82720 Dec. 10—Permitting the removal of slow order at crossing of Erin Street and the Midland Railway of Manitoba in the City of Winnipeg, Manitoba.
- 82721 Dec. 10—Permitting the removal of slow order first public crossing east of the station at Hughenden, in the province of Alberta, mileage 111.76 Hardisty Subdivision, Alberta.
- 82722 Dec. 11—Authorizing the Canadian Northern Railway Company to construct a spur, to serve MacCosham Storage and Distributing Company Limited, along and across 105th Avenue and along and across the lane in Block 7, Hudson's Bay reserve, Edmonton, Alberta.
- 82723 Dec. 11—Permitting the removal of slow order at the crossing of 33rd Street and the C.N.R., Saskatoon, Saskatchewan.
- 82724 Dec. 11—Permitting the removal of slow order at C.P.R. crossing west of the station at Camrose, Alberta.
- 82725 Dec. 11—Authorizing the Canadian Northern Railway Company to abandon the operation of a portion of its line of railway through the City of Edmonton, Alberta, a total distance of 5.1 miles.
- 82726 Dec. 11—In the matter of accident on November 7, 1953, at the crossing of Victoria Avenue and the Canadian National Railways, Fort Francis, Ont.
- 82727 Dec. 11—In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act; and the Order of the Board numbered 82470, dated November 2, 1953, approving tolls published in Tariff C.T.C. No. 1292, filed by the Canadian Freight Association.
- 82728 Dec. 14—Authorizing the C.P.R. to make changes to the operating circuits of the flashing light signals and bell, installed at the crossing of the D.A.R. and Ohio Road, province of Nova Scotia, at mileage 82.41 Yarmouth Subdivision.
- 82729 Dec. 14—In the matter of the application of the C.P.R. for approval of Plan showing protection as installed at the interlocking at Whittier Junction, near the City of Winnipeg, Manitoba.
- 82730 Dec. 14—Authorizing the C.N.R. to make changes in Zone 8 of the Montreal Terminals interlocker.
- 82731 Dec. 14—Authorizing the C.N.R. to construct a spur along and across Betteridge Road in Lot 26, Con. 1, Twp. of Etobicoke, County of York, in the province of Ontario, at mileage 11.08 Brampton Subdivision.
- 82732 Dec. 14—Authorizing the C.N.R. to make changes to the signals between West Junction and Bissell, in the province of Alberta.
- 82733 Dec. 14—Permitting the removal of slow order at C.N.R. crossing at Mann's Siding, in the province of New Brunswick.
- 82734 Dec. 14—Restricting the speed of trains of the C.P.R. at crossing of Bond Street at Galt, Ontario.
- 82735 Dec. 14—Restricting the speed of trains of the Grand River Railway Company at crossing of Ottawa Street, in the City of Kitchener, Ontario.
- 82736 Dec. 15—Authorizing the City of Hamilton, Ontario, to construct a subway where its Eastend Mountain Access Project crosses the C.N.R. in the City of Hamilton, Ontario.
- 82737 Dec. 15—Authorizing the C.P.R. to lengthen the westward operating circuits of the protection at the crossing of Regent Street, Sudbury, Ontario.
- 82738 Dec. 15—In the matter of approval of plan submitted to the C.N.R. by the Thornhill Coal Company, showing the proposed location of storage tank etc., at Thornlea, Ontario.

- 82739 Dec. 15—In the matter of approval of plan submitted to the C.P.R. by the Maryfield Co-Operative Association Limited, showing the proposed location of storage tank etc., at Maryfield Saskatchewan.
- 82740 Dec. 15—Authorizing the Grand Trunk Pacific Railway Company to construct a spur to serve McLennan, McFreeley and Prior Limited.
- 82741 Dec. 15—Authorizing the Grand Trunk Pacific Railway Company to construct a spur to serve John Deere Plow Company Limited across 114th Avenue in the City of Edmonton, Alberta.
- 82742 Dec. 15—Authorizing the C.N.R. to install track circuits on all tracks at the crossing of the railway and Main Street in the Town of Alexandria, Ontario.
- 82743 Dec. 15—Authorizing the Parish of St. Severin, P.Q., to widen the highway where it crosses the right of way of the C.N.R. at mileage 11·98 Grand'Mere Subdivision.
- 82744 Dec. 15—Authorizing the Corporation of The Improvement District of Longlac, Ontario, to construct a road across the right-of-way of the C.N.R. in the District of Thunder Bay, Ontario, mileage 100·1 Caramat Subdivision.
- 82745 Dec. 15—Authorizing the C.N.R. to use and operate the bridge across Minnewashta Creek, Manitoba.
- 82746 Dec. 15—Relieving the C.P.R. from erecting cattleguards at certain highway crossings on its Wetaskiwin Subdivision, province of Alberta.
- 82747 Dec. 15—Authorizing the C.P.R. to install automatic signals from Mileage 0·0 to Mileage 27·0 Cascade Subdivision, province of British Columbia.
- 82748 Dec. 15—Approving clearances of fire escape and refuses chute on the Rio Building located on the siding serving Harry Davidman, Calgary, Alberta.
- 82749 Dec. 16—Extending the time within which protection should be installed at C.P.R. crossing at Roblindale, Ontario.
- 82750 Dec. 16—Permitting the removal of slow Order at C.P.R. crossing near station at Sutherland, Saskatchewan.
- 82751 Dec. 16—Permitting the removal of slow Order at C.N.R. crossing of Wellington Street, Exeter, Ontario.
- 82752 Dec. 16—Permitting the removal of slow Order at C.P.R. crossing east of the station at Gonor, Manitoba.
- 82753 Dec. 16—In the matter of application of Imperial Oil Limited for leave to construct a flow line across and under the pipe line in right-of-way of the Interprovincial Pipe Line Company in the S.W. $\frac{1}{4}$ Section 29-49-21 W4M, Alberta.
- 82754 Dec. 16—Approving under the Maritime Freight Rates Act, tolls published in Supplement to Tariff filed by the Dominion Atlantic Railway Company under Section 8.
- 82755 Dec. 16—Approving under the Maritime Freight Rates Act, tolls published in Supplement to Tariff filed by the Dominion Atlantic Railway Company under Section 8.
- 82756 Dec. 16—Approving under the Maritime Freight Rates Act, tolls published in Supplement to Tariff filed by the Dominion Atlantic Railway Company under Section 8.
- 82757 Dec. 16—Authorizing the clearances on the C.N.R. siding serving Sherritt Gordon Mines Limited, at Lynn Lake, Manitoba.
- 82758 Dec. 16—Extending the time within which protection should be installed at C.P.R. crossing south of station at Flesherton, Ontario.
- 82759 Dec. 17—Authorizing the Toronto Harbour Commissioners to relocate part of their track across Commissioners Street and in the vicinity of Leslie Street, Toronto, Ontario.
- 82760 Dec. 18—Permitting the removal of slow Order at C.P.R. crossing of Henderson Street east of Palais Station, City of Quebec, P.Q.
- 82761 Dec. 18—Authorizing the Dominion Atlantic Railway Company to operate over the subway at Mileage 23·05 Yarmouth Subdivision, N.S.
- 82762 Dec. 18—Authorizing the C.N.R. to construct the Terrace to Kitimat Branch Line of their railway across Airport Road in Lot 374, Half Road in Lot 374, a thirty-three foot road in Lot 990 and the road diversion in Lot 1916 all in Range 5 Coast District, province of B.C.
- 82763 Dec. 18—Authorizing the Village of Quill Lake, Sask., to construct Main Street across the C.N.R. in the Village of Quill Lake, Saskatchewan.
- 82764 Dec. 18—In the matter of approval of plan submitted to the C.N.R. by the Dubois Propane Gas and Service Company showing location of storage tanks, etc., at La Tuque, Quebec.
- 82765 Dec. 18—Restricting the speed of C.P.R. trains at crossing of Shaughnessy Street near Station at Coquitlam, B.C.
- 82766 Dec. 18—Permitting the removal of slow Order at C.P.R. crossing at Elmhurst Street east of Station at Montreal West, P.Q.

- 82767 Dec. 18—Requiring the C.N.R. to install protection at the crossing of their railway and Highway No. 11 at Duro, Saskatchewan.
- 82768 Dec. 18—Approving under the Maritime Freight Rates Act, tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 82769 Dec. 18—Permitting the removal of slow Order at the Northern Alberta Railways Company crossing of Highway No. 2 near Donnelly, Alberta.
- 82770 Dec. 18—Approving Supplements to Traffic Agreement between the Bell Telephone Company and the Beatty Telephone System.
- 82771 Dec. 18—Permitting the removal of slow Order at C.N.R. crossing of Eglinton Avenue, Toronto, Ontario.
- 82772 Dec. 18—In the matter of application of the C.N.R. for an Order amending Order No. 82507, dated November 5, 1953, which authorized them to open for the carriage of freight traffic their railway line from Sherridon to Lynn Lake, Manitoba.
- 82773 Dec. 18—Permitting the removal of slow Order at C.N.R. crossing of Highway No. 11 at Sylvan Lake, Alberta.
- 82774 Dec. 21—In the matter of application of Trans Mountain Oil Pipe Line Company authorizing it to have the right of constructing its company pipe line on land of C.P.R.
- 82775 Dec. 22—Approving proposed location of storage tanks, etc., of Imperial Oil Limited near the C.N.R. tracks at Kingston, Ontario.
- 82776 Dec. 22—In the matter of approval of plan submitted to the C.N.R. by Georges Chapdelaine Reg'd, showing proposed location of pipe line etc., at St. Hyacinthe, P.Q.
- 82777 Dec. 22—Authorizing the C.N.R. to reconstruct the bridge over the Saugeen River, Ontario.
- 82778 Dec. 22—In the matter of application of City of Moncton, N.B., for approval of By-law, dated December 9, 1953, prohibiting the sounding of any engine whistle in respect to certain highway crossings at Lutz Street, etc., in the said City.
- 82779 Dec. 23—Approving proposed location of storage tanks etc., near the C.N.R. tracks at St. Thomas, Ontario.
- 82780 Dec. 23—In the matter of accident on November 21, 1953, at the crossing of 82nd Avenue and the C.P.R., just north of station at South Edmonton, Alberta.
- 82781 Dec. 23—Authorizing the C.P.R. to construct its line across the highway at certain Mileages on its Timiskaming Subdivision, province of Quebec.
- 82782 Dec. 23—Permitting the removal of slow Order at C.N.R. crossing just west of the station at Kelliher, Saskatchewan.
- 82783 Dec. 23—Permitting the removal of slow Order at C.P.R. crossing north of station at Middle Lake, Saskatchewan.
- 82784 Dec. 23—In the matter of approval of plan submitted to the C.P.R. by the British American Oil Co. Ltd., showing the proposed location of connecting pipe lines and tank car loading points at Vancouver, B.C.
- 82785 Dec. 23—In the matter of approval of plan submitted to the C.N.R. by the Imperial Oil Limited showing the proposed location of storage tanks etc., at Morinville, Alberta.
- 82786 Dec. 23—Permitting the removal of slow Order at C.N.R. crossing west of station at St. Jean Port Joli, Quebec.
- 82787 Dec. 24—Permitting the removal of slow Order at C.P.R. crossing at Regent Street north of station at Enderby, B.C.
- 82788 Dec. 24—Permitting the removal of slow Order at C.N.R. crossing west of Bissell, Alberta.
- 82789 Dec. 24—Permitting the removal of slow Order at C.P.R. crossing over Panet Road at Mileage 122.53, Keewatin Subdivision, Manitoba.
- 82790 Dec. 28—In the matter of Order of the Board No. 79053, dated May 27, 1952, which authorized the Ontario Department of Highways to divert Highway No. 17 across the C.P.R. in Section 26, Township of Victoria, District of Algoma, by means of an overhead bridge.
- 82791 Dec. 28—Approving operation of C.N.R. trains over private siding serving General Milk Products of Canada Limited, Brockville, Ontario.
- 82792 Dec. 28—Extending the time within which the C.P.R. was required by Order No 81791, dated July 16, 1953, to install protection at Martindale Road, Ontario.
- 82793 Dec. 28—Approving under the Maritime Freight Rates Act, tolls published in Supplement to Tariffs filed by the Dominion Atlantic Railway Company under Section 8.
- 82794 Dec. 28—In the matter of application of the C.P.R. for approval of plan showing protection as installed at crossing of Douglas Avenue, Saint John, N.B.

- 82795 Dec. 28—Authorizing the Toronto, Hamilton and Buffalo Railway Company to install protection at the crossing of its railway at Canboro Road, near Fenwick, Ontario.
- 82796 Dec. 28—Permitting the removal of slow Order at C.N.R. crossing west of station at Granada, Alberta.
- 82797 Dec. 28—In the matter of application of Shell Oil Company of Canada Limited for a fixed charge the same as Agreed Charge Tariff C.T.C. (AC) No. 45, as approved by the Board.
- 82798 Dec. 28—Approving Supplement No. 2 to Agreed Charge Tariff C.T.C. (AC) No. 45.
- 82799 Dec. 28—In the matter of application of the Canadian Freight Association for approval of Supplement No. 3 to Agreed Charge Tariff C.T.C. (AC) No. 45.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

February 1, 1954

No. 21

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

Application of Swift Canadian Co. Limited for an interpretation of tariff provisions respecting export traffic to Montreal

File 30741-5

BY THE BOARD:

RULING

This is an application of the Swift Canadian Company, Limited, (hereinafter called the applicant) seeking an interpretation of certain provisions of the railways' tariffs concerned with rates for export traffic through the port of Montreal.

Answer to the application has been made by the Canadian National Railways and the Canadian Pacific Railway Company (hereinafter called the railways) and there have been subsequent submissions by both parties. Both the applicant and the railways have expressed willingness that the matter be decided upon the written submissions.

The tariff provisions at issue are those obtained in tariffs naming export rates wherein it is stated that such rates "include terminal charges at ports of export as follows:

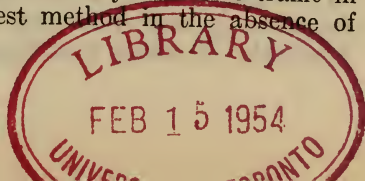
Switching to the docks to the extent published in.....

Cartage to the docks when performed in lieu of switching."

Switching to the docks beyond the termini of the railways is performed by the National Harbours Board and the charge therefor is said to be \$9.00 per car of which the railways absorb \$4.00 under the tariff provisions cited above.

It is contended that in contrast to an absorption of a limited amount of the switching charge, complete absorption is made of cartage charges. The applicant asserts "It will be observed from the text of the tariffs quoted that the terminal services at Montreal include 'switching to steamship piers to the extent named in'"

The applicant asserts that it is the duty of the railways to route traffic in such manner as to accord to shippers the cheapest method in the absence of



express instructions to the contrary; that because the railways had a cheaper alternative method of delivering the shipments to the steamship piers, insofar as the shipper is concerned, by reason of the complete absorption of cartage charges, the applicant should not be called upon to pay the unabsorbed portion of the National Harbours Board switching. In this contention the applicant relies upon the principle established in previous cases to which our attention was directed.

The position taken by the railways may be summarized as contending that cartage, being more expensive than switching, is performed only at the election of the railway and only in an emergency; that the normal method of transferring export freight from domestic rail terminals to steamship piers is by switching; that if the railways at their discretion elect to utilize cartage for such transfer the shipper would not be called upon to pay any more for such service than if it had been transferred by switching; and that the application seeks to put a strained and unreasonable interpretation upon the tariff provisions.

In the further submissions the applicant reiterates that the tariffs plainly indicate the railways undertake to deliver export traffic to steamship piers by two methods and that as the choice of methods is entirely with the railways they are required to handle the shipments by the cheapest way to the shipper, or if the more expensive way is chosen the additional switching charges should be absorbed.

The applicant also asserts that ambiguity exists in the tariff provisions and, by our established principles, should be read in ease of the shipper; also that the tariffs must be construed literally. The railways deny that ambiguity exists or that the literal interpretation of the tariffs supports the contentions of the applicant.

Inasmuch as the main issues have been set out herein, no particular need exists to more fully set out all that has been submitted. It is sufficient to say that all submissions have received our careful consideration.

We agree with the applicant that if ambiguity exists the tariffs should be read in ease of the shipper, and that the tariffs are to be construed literally. These are principles which have guided the Board in many previous instances.

As the question at issue hinges upon the literal interpretation of the tariffs we are impressed with the fact that such tariff provisions as are at issue are merely provisions for specifying the extent to which the railway undertakes to absorb charges for switching or cartage. We are unable to find anything in the tariffs which sets up an undertaking of the railway to perform either switching or cartage service from the rail termini to the docks.

That the applicant appears to consider that such an undertaking is made is exemplified by having stated "the terminal services at Montreal include" switching or cartage "at the option of the railways". We do not find anything in the tariffs undertaking to do any more than absorb certain charges.

We also disagree with the contention of the railways that if cartage were performed the charge would be the same to the shipper as if switching had been performed. No such interpretation can be taken from the tariff because there is a very clear indication that if cartage is performed no maximum absorption is provided.

Clearly the railway does not by the tariff undertake cartage service as part of its line haul or terminal service on the traffic moving under the export rates in the tariff, and it is our opinion that the railway has performed all of the functions it undertakes by the tariffs when it terminates the traffic in its terminals. It seems that through established practice cars are delivered to the

harbour railway for placement at steamship piers, but there is nothing to indicate that a shipper could not direct the transfer by other means. The only requirement within the railway tariffs is that the export rates to Montreal "will only apply on traffic intended for delivery to steamers docking at piers of the National Harbours Board." This involves only the policing of the point at which the traffic is so delivered as a means of applying the proper line-haul tariff rate.

As the tariffs made no undertaking to effect dock delivery it follows that the option does not rest with the railway to select the method of delivery, but the railway has obligated itself to absorb the entire cost of cartage only "if performed". Similarly the railway has obligated itself to pay the specified amount of the switching charge.

While the railways' submissions are that the transfer is performed by cartage at their option, this cannot be held to be determinative of the contentions of either party under a literal interpretation of the tariff provisions. If the intention of the railways is as stated, and they do undertake to perform, or select the means of performing the transfer from their termini to the steamer dock, there is considerable room for revision of the tariff provisions to make this fact clear and beyond dispute. Similarly if the railways do not intend to absorb the cartage charges involved in transfer by that method, the tariffs should be clarified.

On what has been submitted, our ruling is that the tariffs in question do not provide for the method by which transfer from rail termini to ship-side shall be accomplished; that such tariff provisions as are at issue in these proceedings provide for a limited absorption of the switching charges of the National Harbours Board, and for complete absorption of cartage charges only when such cartage is performed in lieu of switching. We also find that it is not stated in the said tariffs that the railways undertake to perform either transfer service from their terminals to steamship dock.

JOHN D. KEARNEY,
HUGH WARDROPE,
A. SYLVESTRE,
H. B. CHASE,
O. A. MATTHEWS.

OTTAWA, December 22, 1953.

ORDER No. 82863

In the matter of the application of the Canadian Freight Association, under the provisions of Part V of the Transport Act, for approval of an agreed charge dated November 30, 1953, between the Canadian National Railway Company, Northern Alberta Railways Company and Royalite Oil Company, Limited on petroleum products from Coleville, Saskatchewan, to points in the Provinces of Alberta and Saskatchewan:

File No. 40994-51

FRIDAY, the 8th day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed, notice of the said application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections having been filed—

It is ordered that the said Agreed Charge between the Canadian National Railway Company, Northern Alberta Railways Company and Royalite Oil Company, Limited on petroleum products from Coleville, Saskatchewan, to points in the Provinces of Alberta and Saskatchewan, on file with the Board under file No. 40994-51, be, and it is hereby, approved, the same to become effective on the 1st day of December, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82878

In the matter of the application of the Canadian Freight Association, dated March 25, 1953, under the provisions of the Transport Act for approval of an Agreed Charge:

File No. 40994-44

MONDAY, the 11th day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon hearing the application at sittings of the Board at Ottawa on November 9 and 10, 1953, and January 7, 1954, in the presence of Counsel for and representatives of the Canadian Freight Association, British Columbia Electric Railway Company Limited, Canadian National Railways, Canadian Pacific Railway Company, Ontario Northland Railway and Vancouver and Lulu Island Railway Company (Canadian Pacific Railway Company, Lessee), Canada Iron Foundries Limited and National Iron Corporation Limited, Province of Alberta and other parties, Edmonton Chamber of Commerce and City of

Edmonton, Canada Packers Limited and Canadian Cannery Limited, and Warden King Limited, and for reasons which will be given in writing at a later date—

It is ordered

1. That the Agreed Charge on file with the Board under file No. 40994-44 and attached to the said application, between the parties described in paragraph A thereof, applying on Cast Iron Pipe and Fittings as described in paragraph B thereof, from Toronto and Trois Rivières and other points specified in paragraph C(1) thereof, to Prince Rupert, Vancouver and Watson Island, B.C., be, and it is hereby approved; and the Board hereby fixes the date of this Order as the date on which the said Agreed Charge becomes operative.

2. That a charge is hereby fixed for the transport by the said railway companies of the same goods to the same destinations as above stated, for Warden King Limited to be applicable from Montreal at the rate contained in the agreed charge from Toronto, and subject to and upon the same terms and conditions contained in the said Agreed Charge; and the Board hereby fixes the date of this Order as the date on which the charge hereby fixed becomes operative.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82884

In the matter of the application of the Canadian Freight Association, under the provisions of The Transport Act, 1938, for approval of an agreed charge dated February 20, 1953, between Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways Company and Husky Oil & Refining Ltd. on petroleum products, carloads, in tank cars only, from Lloydminster, Alberta-Saskatchewan, to points in Alberta, Saskatchewan and Manitoba:

File No. 40994-28

WEDNESDAY, the 13th day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed, notice of the said application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objection having been filed

It is ordered that the said Agreed Charge, on file with the Board under file No. 40994-28, between the Canadian National Railway Company, Canadian Pacific Railway Company, Northern Alberta Railways Company and Husky Oil & Refining Ltd. on petroleum products, carloads, in tank cars only, as described in paragraph B thereof, from Lloydminster, Alberta-Saskatchewan, to points in Alberta, Saskatchewan and Manitoba, be, and it is hereby approved for a period of one year commencing January 28, 1954.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 82915

In the matter of the application of the Canadian Pacific Railway Company for a licence under section 10 of the Transport Act:

File No. 42076-24

THURSDAY, the 14th day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence No. C.T.C. (W.T.) 278 be issued to the Canadian Pacific Railway Company for a period of one year commencing on the 15th day of January, 1954, licensing the following ships, namely:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Assiniboia</i>	125984	3,880
<i>Keewatin</i>	125985	3,856

to transport passengers and/or goods by water between all ports or places in Canada on Lakes Huron (including Georgian Bay) and Superior, and their connecting waters.

HUGH WARDROPE,

Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82800 Dec. 29—Restricting the speed of C.P.R. trains over Adelaide Street, London, Ont.
- 82801 Dec. 29—Authorizing the C.N.R. to operate over the bridge over Serpentine Creek, British Columbia
- 82802 Dec. 29—Permitting the removal of slow order at C.P.R. crossing of Daniel Street, Arnprior, Ont.
- 82803 Dec. 29—Permitting the removal of slow order at C.N.R. crossing of Booth Street, Ottawa, Ont.
- 82804 Dec. 29—Permitting the removal of slow order at C.P.R. crossing of Third Street, near Crumlin, Ont.
- 82805 Dec. 29—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 11, near station at Jellicoe, Ont.
- 82806 Dec. 29—Approving of the signalling layout between Clifton Junction and St. Catharines, Ont. (C.N.R.)
- 82807 Dec. 29—Authorizing the Sherwood Co-Operative Association Limited to construct a pipe under the tracks of the C.P.R., at mileage 2·06 Lanigan Subdivision, Saskatchewan.
- 82808 Dec. 29—Authorizing the Alberta Department of Water Resources to construct a bridge to carry the C.P.R. tracks over Chin Lake at mileage 91·1 Taber Subdivision, Alberta.
- 82809 Dec. 30—Approving Traffic Agreement between the Bell Telephone Company of Canada and La Compagnie de Téléphone Rural de Ste. Christine.
- 82810 Dec. 30—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de St. Jean Baptiste de Roxton.
- 82811 Dec. 30—In the matter of the application of C.N.R. for an Order directing the Bell Telephone Company to furnish to C.N.R. for its use, an operating communications circuit of telephone quality between a point at or near the C.N.R. communications office, Port Arthur, Ont., and a point at or near the international boundary between Canada and the United States of America in the vicinity of Pigeon River, Ont., etc.
- 82812 Dec. 30—Permitting the removal of slow order at C.P.R. crossing near station at Batiscan, Que.
- 82813 Dec. 30—Permitting the removal of slow order at C.P.R. crossing at mileage 7·7 St. Gabriel Subdivision, Quebec.
- 82814 Dec. 30—Authorizing the Interprovincial Pipe Line Company to open for the transportation of oil, that section of its company pipe line from a point on the international boundary in the St. Clair River in the vicinity of Sarnia, Ont.
- 82815 Dec. 30—Permitting the removal of slow order at N.Y.C. Railroad crossing of Lake Street, near station at Huntingdon, Que.
- 82816 Dec. 30—Permitting the removal of slow order at C.N.R. crossing near station at Lemieux, Que.
- 1954
- 82817 Jan. 4—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 82818 Jan. 4—Approving By-law of the City of Woodstock, Ont., in regard to the sounding of engine whistles.
- 82819 Jan. 4—Authorizing the T.H. & B. Railway Company to install protection at crossing of its railway and the first road east of the station at Fenwick, Ont.
- 82820 Jan. 4—In the matter of the application of the Canadian Freight Association for approval of Supplement No. 1 to Agreed Charge Tariff C.T.C. (AC) No. 53.
- 82821 Jan. 4—Approving Supplement to Agreed Charge Tariff C.T.C. (AC) No. 54.
- 82822 Jan. 4—Permitting the removal of slow order at C.N.R. crossing near station at Eganville, Ont.
- 82823 Jan. 4—Permitting the removal of slow order at C.P.R. crossing near station at Milton, Ont.
- 82824 Jan. 4—Permitting the removal of slow order at C.P.R. crossing near Melville, Ont.
- 82825 Jan. 4—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under Section 3.
- 82826 Jan. 4—In the matter of the application of C.N.R. for approval of Plan showing the automatic protection as installed at the crossing of its railway and Oxford Street, London, Ont.
- 82827 Jan. 4—Permitting the removal of slow order at C.P.R. crossing of Horne Avenue, east of the station at Mission City, B.C.
- 82828 Jan. 4—Authorizing the C.P.R. to make signal changes between mileages 36 and 125·7 Mountain Subdivision, British Columbia.
- 82829 Jan. 4—Approving proposed location of storage tank, etc., of McColl-Frontenac Oil Company Limited, near the C.N.R. tracks at Sillery, Que.
- 82830 Jan. 4—Approving proposed location of storage tank, etc., of Nicholson File Company of Canada Limited, near the C.N.R. tracks at Port Hope, Ont.

- 82831 Jan. 4—Approving certain tariffs filed by the British Columbia Telephone Company.
- 82832 Jan. 4—Authorizing the C.N.R. to erect a stop board on each side of the crossing of the Niagara, St. Catharines and Toronto Railway on the Merrittville Highway, County of Welland, Ontario.
- 82833 Jan. 5—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 82834 Jan. 5—Authorizing the C.N.R. to use the bridge over Clemina Creek, at mileage 97·8 Albreda Subdivision, British Columbia
- 82835 Jan. 5—Authorizing the Rural Municipality of St. Louis No. 431, Sask., to construct the highway across the C.N.R., at mileage 78·3 Cudworth Subdivision, Saskatchewan.
- 82836 Jan. 5—Approving Supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Welland County Telephone Company Limited.
- 82837 Jan. 5—Approving Supplement to Traffic Agreement between the Bell Telephone Company and the Telephone System of the Municipality of the Township of North Norwich.
- 82838 Jan. 5—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the N.A.R. tracks at Barrhead, Alta.
- 82839 Jan. 5—Approving proposed location of storage tank, etc., of Shell Oil Company of Canada Limited, near the C.N.R. tracks at Parent, P.Q.
- 82840 Jan. 5—Requiring the C.N.R. to install protection at crossing of their railway and Highway No 17, at mileage 81·3 Beachburg Subdivision, Ontario.
- 82841 Jan. 5—Permitting the removal of slow order at C.N.R. crossing of Highbury Avenue, London, Ont.
- 82842 Jan. 5—Authorizing the C.P.R. to install protection at crossing of its railway and the Ontario Northland Railway at Golf Street, North Bay, Ont.
- 82843 Jan. 5—Relieving the C.P.R. from erecting cattle guards at certain highway crossings on its Thessalon Subdivision, Ontario.
- 82844 Jan. 5—Permitting the removal of slow order at C.P.R. crossing at mileage 77·62 Shogomoc Subdivision, New Brunswick.
- 82845 Jan. 6—Permitting the removal of slow order at Esquimalt & Nanaimo Railway (C.P.R.) crossing near station at Langford, B.C.
- 82846 Jan. 6—Permitting the removal of slow order at C.P.R. crossing, near station at Barnwell, Alta
- 82847 Jan. 6—Requiring the C.N.R. to provide a station agent at Chester Basin, N.S.
- 82848 Jan. 6—Authorizing the C.N.R. to close Rosebank, Man., as an agency station and appoint a caretaker.
- 82849 Jan. 7—Approving proposed location of unloading points of Imperial Oil Limited, near the Dominion Atlantic Railway Company tracks, at Truro, N.S.
- 82850 Jan. 7—Extending the time within which the protection is to be installed at the crossing of the Chesapeake and Ohio Railway Company and Sunset Drive, St. Thomas, Ont.
- 82851 Jan. 7—Approving operation of C.P.R. trains over private siding serving Saskatchewan Federated Co-Operatives Limited, Swift Current, Sask.
- 82852 Jan. 7—Authorizing the C.N.R. to make changes in the signals at the interlocker at the crossing of their railway and the railway of Imperial Oil Limited at Montreal East, Que.
- 82853 Jan. 7—Authorizing the C.P.R. to conduct tests of the ventilating facilities without the use of fans at the Connaught Tunnel, B.C.
- 82854 Jan. 7—In the matter of tariffs and supplements to tariffs, filed under the provisions of the Maritime Freight Rates Act; and Order of the Board No. 82716, dated December 9, 1953, approving tolls published in Tariff C.T.C. No. 1212, filed by the Dominion Atlantic Railway Company.
- 82855 Jan. 7—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 82856 Jan. 7—Authorizing The Algoma Central and Hudson Bay Railway Company to operate the bridge at mileage 286·9 Northern Subdivision, Ontario.
- 82857 Jan. 7—Approving Traffic Agreement between The Bell Telephone Company and The McCreary Telephone Company Limited.
- 82858 Jan. 7—Approving proposed location of storage tank, etc., of the Central Pipe Line Company Limited, near the C.N.R. tracks at Aylmer, Ont.
- 82859 Jan. 7—Restricting the speed of trains over the C.N.R. crossing at South Market Street, Brantford, Ont.
- 82860 Jan. 8—Restricting the speed of trains over the C.N.R. crossing at Main Street, near the station at Dauphin, Man.
- 82861 Jan. 8—Permitting the removal of slow order at C.N.R. crossing of St. Octave Street, at Victoriaville, Que.
- 82862 Jan. 8—Permitting the removal of slow order at C.N.R. crossing of First Street, near station at Vegreville, Alta.

- 82863 Jan. 8—In the matter of the application of the Canadian Freight Association, for approval of an agreed charge dated November 30, 1953, between the C.N.R., N.A.R. and Royalite Oil Company, Limited on petroleum products from Coleville, Sask., to points in the Provinces of Alberta and Saskatchewan.
- 82864 Jan. 8—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited, near the C.N.R. tracks at Chilliwack, B.C.
- 82865 Jan. 8—In the matter of application of the C.N.R. on behalf of Dome Exploration (Western) Limited for temporary permission to load crude oil into tank cars from tank trucks at mileage 0-25 Drumheller North Branch, near Drumheller, Alta.
- 82866 Jan. 8—Approving proposed location of storage tanks, etc., of Coca-Cola Limited, near the C.P.R. tracks at mileage 3-6 Westmount Subdivision, Montreal, Quebec.
- 82867 Jan. 8—Authorizing the Algoma Central and Hudson Bay Railway Company to use the bridge over the Agawa River, Ontario.
- 82868 Jan. 8—Relieving the C.N.R. from maintaining right-of-way fencing at certain mileages on their Letellier Subdivision, Manitoba.
- 82869 Jan. 8—In the matter of the application of the Ontario Department of Highways for an order amending Order No. 79155, dated June 7, 1952, which authorized the construction of the Trans Canada Highway across the C.P.R. at mileage 1-01 Thessalon Subdivision, etc.
- 82870 Jan. 8—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Dominion Atlantic Railway Company under section 8.
- 82871 Jan. 8—Relieving the C.P.R. from erecting cattle guards at the crossing of its railway and the highway, at mileage 22-71 on its Okanagan Subdivision, British Columbia.
- 82872 Jan. 8—Authorizing the City of Toronto to construct Moberley Avenue across the C.N.R.
- 82873 Jan. 11—Permitting the removal of slow order at C.P.R. crossing at mileage 16-03 Ste. Agathe Subdivision, Quebec.
- 82874 Jan. 11—Permitting the removal of slow order at C.P.R. crossing of Bridge Street, Almonte, Ont.
- 82875 Jan. 11—Authorizing the C.N.R. to replace the present mechanical interlocker at the crossing of their railway and the railway of the C.P.R. at Nokomis, Sask., with an automatic interlocker.
- 82876 Jan. 11—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Canadian Freight Association under Sections 3 and 8.
- 82877 Jan. 11—In the matter of installation of additional protection at the crossing of the C.N.R. and the railway of the C.P.R. and Morris Street in the Town of Gladstone, Manitoba.
- 82878 Jan. 11—In the matter of the application of the Canadian Freight Association, under the provisions of the Transport Act for approval of an Agreed Charge.
- 82879 Jan. 11—Authorizing the Quebec North Shore and Labrador Railway Company to construct a bridge over Howells River, Newfoundland.
- 82880 Jan. 11—In the matter of the application of the C.N.R. for approval of Plan No. 480/7A5, dated November 13, 1953, showing the interlocker as installed at the crossing of their railway and the railway of the C.P.R. at Maryfield, Saskatchewan.
- 82881 Jan. 12—Authorizing the C.N.R. to remove the station agent and appoint a caretaker at Benton, Alta.
- 82882 Jan. 12—Permitting the removal of slow order at the crossing of St. Charles Street and the Montreal & Southern Counties Railway (C.N.R.), near Granby, P.Q.
- 82883 Jan. 12—Approving proposed location of storage tanks, etc., near C.P.R. tracks, Whitewood, Sask.
- 82884 Jan. 13—In the matter of application of the Canadian Freight Association for approval of an Agreed Charge dated February 20, 1953, between the C.N.R., C.P.R., N.A.R. and Husky Oil & Refining Ltd. on petroleum products, car loads, in tank cars only, from Lloydminster, Alberta-Saskatchewan, to points in Alberta, Saskatchewan and Manitoba.
- 82885 Jan. 13—In the matter of the application of the C.P.R. for an Order amending Order No. 77398, dated September 19, 1951, which authorizes it to construct a new wye at mileage 51-9 Thessalon Subdivision, Ontario.
- 82886 Jan. 13—In the matter of approval of plan submitted to the C.N.R. showing proposed location of storage tanks, etc., at Gravelbourg, Sask.
- 82887 Jan. 13—In the matter of application of the C.P.R. for an Order rescinding Orders Nos. 76594, 77787, and 80711, which provide for a speed restriction of ten miles an hour and six miles an hour on back-up movements over the crossing of its railway and 104th Street at 85th Avenue, Edmonton, Alta.

- 82888 Jan. 13—In the matter of the application of the C.N.R. for authority to operate over the most northerly track crossing Fulford Street; the most northerly three tracks crossing Canning Street; the most northerly three tracks crossing Chatham Street; the two most southerly tracks crossing Seigneur Street; and over the tracks extending from west to east along Trudel Avenue between Seigneur Street and Richmond Street, Montreal, P.Q.
- 82889 Jan. 13—In the matter of changes in the rate grouping of certain exchanges of the Bell Telephone Company of Canada.
- 82890 Jan. 13—Permitting the removal of slow order near the C.N.R. crossing west of Kingston, Ont., at mileage 175-90 Gananoque Subdivision.
- 82891 Jan. 13—Approving Service Station Application between The Bell Telephone Company of Canada and the Bell Telephone Line.
- 82892 Jan. 13—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone du Canton de Dudswell.
- 82893 Jan. 13—Approving Service Station Contract between The Bell Telephone Company of Canada and La Compagnie de Téléphone Rural de la Patrie.
- 82894 Jan. 13—Approving Service Station Contract between The Bell Telephone Company of Canada and the Lake Valley Telephone Association.
- 82895 Jan. 13—Approving Service Station Contract between The Bell Telephone Company of Canada and The Highland Mutual Telephone Association.
- 82896 Jan. 13—Approving Service Station Contract between The Bell Telephone Company of Canada and The Windsor Mills Telephone Company.
- 82897 Jan. 13—Approving Service Station Contract between The Bell Telephone Company of Canada and The New London Telephone Company.
- 82898 Jan. 13—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone St. François Limitée.
- 82899 Jan. 13—Approving Traffic Agreement between The Bell Telephone Company of Canada and La Compagnie de Téléphone de St. Felix de Kingsey.
- 82900 Jan. 13—Approving Traffic Agreement between The Bell Telephone Company of Canada and the Lingwick Municipal Telephone System.
- 82901 Jan. 13—Approving plan showing protection as installed at C.N.R. crossing and Highway No. 2 at mileage 176-29 Gananoque Subdivision, Ontario.
- 82902 Jan. 13—Approving proposed location of Storage Tanks, etc., of Muir Coal Company, near the tracks of the C.N.R. at Galt, Ontario.
- 82903 Jan. 13—Approving plan showing protection as installed at C.N.R. crossing of Eglinton Avenue, near Scarboro Junction Station, Uxbridge Subdivision, Ontario.
- 82904 Jan. 13—Approving the application of the Canadian Northern Railway Company for an Order to operate their trains, cars, etc., over a private siding serving Saskatchewan Power Corporation, Saskatoon, Saskatchewan.
- 82905 Jan. 13—Restricting the speed of trains of The Oshawa Railway Company, at the crossing of Bruce Street, Oshawa, Ontario.
- 82906 Jan. 14—Authorizing Imperial Oil Limited, to construct pipe lines across and under the tracks of the C.P.R., Kingston, Ontario.
- 82907 Jan. 14—In the matter of application of the Canadian Freight Association, for approval of an agreed charge dated September 16, 1953, between certain railways and certain companies on fish, canned, boxed, carloads from Pacific Coast points to points in the Provinces of New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island and Quebec.
- 82908 Jan. 14—Permitting the removal of slow order at the crossing of Danforth Road and the C.N.R. at Scarboro, Ontario, mileage 60-18 Uxbridge Subdivision.
- 82909 Jan. 14—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 90, near the station at Angus, Ontario.
- 82910 Jan. 14—Permitting removal of slow order at the crossing of the highway and the C.N.R., west of the station at Ryley, Alberta.
- 82911 Jan. 14—Permitting the removal of slow order at the crossing of the Montreal & Southern Counties Railway and Montee St. Hubert, being the first public crossing west of the station at Croydon, P.Q.
- 82912 Jan. 14—In the matter of the application of the C.P.R. for an Order rescinding Order No. 78519, dated March 13, 1952, restricting the speed limitation at the crossing of its railway and Boom Street, in the Village of Fort Coulonge, Quebec.
- 82913 Jan. 14—In the matter of application of the C.N.R. for approval of plan showing the wig wag signal and bell as installed at the crossing of their railway and Highway No. 15 at Rideau, Ontario.
- 82914 Jan. 14—Restricting the speed of trains of the C.N.R. at crossing of 95th Street, east of the station in Edmonton, Alberta.
- 82915 Jan. 14—In the matter of application of the C.P.R. for a licence under section 10 of the Transport Act.

- 82916 Jan. 14—In the matter of application of the Canadian Northern Railway Company for an Order authorizing the construction of a spur to serve MacCosham Storage and Distributing Company Limited, Edmonton, Alberta.
- 82917 Jan. 14—Relieving the C.P.R. from erecting right-of-way fencing between certain mileages on its Thessalon Subdivision, Ontario.
- 82918 Jan. 14—Authorizing the Interprovincial Pipe Line Company, to open, for the transportation of oil, the second pipe line across the Souris River, Manitoba.
- 82919 Jan. 15—Permitting the removal of slow order at C.N.R. crossing of First Avenue, west of the station at Hope, B.C.
- 82920 Jan. 15—In the matter of approval of plan submitted to the C.N.R. by North Star Oil Limited, showing the proposed location of storage tanks, etc., at Flin Flon, Manitoba.
- 82921 Jan. 15—In the matter of application of the Alberta Department of Highways, for an Order authorizing it to widen Highway No. 16 where it crosses the pipe line of the Trans Mountain Oil Pipe Line Company in the N.W. $\frac{1}{4}$ of Sec. 33-52-21-W5M, Alberta.
- 82922 Jan. 15—Permitting the removal of slow order at C.N.R. crossing of Highway No. 6, west of the station at Raymore, Saskatchewan.
- 82923 Jan. 15—Permitting the removal of slow order at C.N.R. crossing, west of the station at Irma, Alberta.
- 82924 Jan. 15—Permitting the removal of slow order at the crossing of Union Road and the New York Central Railway, west of the station at Shedden, Ontario.
- 82925 Jan. 15—In the matter of installation of protection at the crossing of the C.N.R. and Front Street in the Town of Orillia, Ontario.
- 82926 Jan. 15—Permitting the removal of slow order at the C.N.R. crossing of St. Davids Road, Merritton, Ontario.
- 82927 Jan. 15—Restricting the speed of C.P.R. trains at crossing of Main Street, Leduc, Alberta.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

February 15, 1954

No. 22

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

GENERAL ORDER No. 791

In the matter of the application of The Railway Association of Canada for approval of Supplement No. 2 to Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service:

File No. 1717.B

MONDAY, the 11th day of January, A.D. 1954

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the said Supplement No. 2 to Regulations for the Transportation of Explosives and Other Dangerous Articles in Rail Freight and Rail Express Service, on file with the Board under file No. 1717.B, be, and it is hereby, authorized for the observance of the railway companies subject to the jurisdiction of the Board which accept explosives and other dangerous articles for carriage.

2. That this General Order No. 791, shall come into force on the 31st day of March, 1954.

HUGH WARDROPE
Assistant Chief Commissioner.

301

83920—1



ORDER No. 82994

In the matter of the application of the Canadian Freight Association under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated December 14, 1953, between the Canadian National Railway Company, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Grand River Railway Company, The Lake Erie and Northern Railway Company, The New York Central Railroad Company (Michigan Central District) The Toronto, Hamilton and Buffalo Railway Company and Dow Chemical of Canada Limited on Latex (Liquid Crude Rubber) from Sarnia, Ontario, to stations and/or places as set out in paragraph C (2) of the said Agreed Charge:

File No. 40994-53

FRIDAY, the 22nd day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MacPHERSON, *Commissioner.*

Upon reading the submissions filed, notice of the said application having been mailed to the parties named in General Order No. 581, dated January 21, 1939, and no objections having been filed—

It is ordered that the said Agreed Charge between Canadian National Railway Company, Canadian Pacific Railway Company, The Chesapeake and Ohio Railway Company (Pere Marquette District), The Grand River Railway Company, The Lake Erie and Northern Railway Company, The New York Central Railroad Company (Michigan Central District), The Toronto, Hamilton and Buffalo Railway Company and Dow Chemical of Canada Limited, on Latex (Liquid Crude Rubber) from Sarnia, Ontario, to stations and/or places as set out in paragraph C(2) of the said Agreed Charge, on file with the Board under file No. 40994-53, be, and it is hereby, approved; and the date as from which the said Agreed Charge shall be deemed to have become operative is hereby fixed as the 17th day of December, 1953.

HUGH WARDROPE,

Assistant Chief Commissioner.

ORDER No. 83036

In the matter of the application of the Canadian Freight Association, dated September 4, 1953, under the provisions of Part IV of the Transport Act, for approval of an agreed charge dated September 4, 1953, between the British Columbia Electric Railway Company Limited, Canada Steamship Lines, Limited, Canadian National Railway Company, Canadian Pacific Railway Company, Central Vermont Railway, Inc., The Chesapeake and Ohio Railway Company (Pere Marquette District), The Dominion Atlantic Railway Company, The Esquimalt and Nanaimo Railway Company, The Essex Terminal Railway Company, The Grand River Railway Company, The Lake Erie and Northern Railway Company, The London and Port Stanley Railway, Napierville Junction Railway Company, The New York Central Railroad Company, Northern Navigation Company Limited, Northwest Steamships Limited, Ontario Northland Railway, Pacific Great Eastern Railway Company, Quebec Central Railway Company, The Thousand Islands Railway Company, The Toronto, Hamilton and Buffalo Railway Company, Vancouver and Lulu Island Railway Company (Canadian Pacific Railway Company, Lessee), Wabash Railroad Company, referred to therein as the "Carrier"; and Canadian Concord Limited, Carnation Company Limited, W. Clark, Limited, Daltons (1834) Limited, Fine Foods of Canada Limited, H. J. Heinz Company of Canada Limited, Howell Forwarding Company Limited, Libby, McNeill & Libby of Canada Limited, McLarens Limited and Stokely-Van Camp of Canada, Limited, referred to therein as the "Shipper"; on canned goods or preserves, carloads, from stations in the Provinces of New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Quebec, also St. John's, Newfoundland, to points in the Provinces of Alberta and British Columbia:

And in the matter of the application of Campbell Soup Company Limited; Matthews-Wells Company Limited; and Saxonia Fruit Preserving Company Limited for a charge to be fixed the same as the agreed charge as aforesaid:

File No. 40994-47

THURSDAY, the 28th day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the application at sittings of the Board at Ottawa on November 10, 11 and 12, 1953, in the presence of Counsel for and representatives of the Canadian Freight Association, Canadian National Railways, Canadian Pacific Railway Company, Canada Steamship Lines, the Province of Alberta, Canada Packers Limited, and Canadian Cannery Limited, and for reasons which will be given in writing at a later date—

It is ordered

1. That the agreed charge on file with the Board under file No. 40994-47 and attached to the said application, between the Carrier and Shipper described in paragraph A thereof, applying on Canned Goods or Preserves, carloads, as

described in paragraph B thereof, from the stations and/or places specified in paragraph C(1) thereof to stations and/or places specified in paragraph C(2) thereof, be, and it is hereby, approved; and the Board hereby fixes the 8th day of September, 1953, as the date from which the said agreed charge shall be deemed to have become operative.

2. That a charge is hereby fixed for the transport by the said Carrier of the same goods from the same points of origin to the same points of destination as set out herein, for Campbell Soup Company Limited, Matthews-Wells Company Limited, and Saxonia Fruit Preserving Company Limited, subject to and upon the same terms and conditions contained in the said agreed charge; and the Board hereby fixes as the dates upon which the said fixed charge shall become operative as follows:

Campbell Soup Company Limited—September 18, 1953.

Matthews-Wells Company Limited—October 5, 1953.

Saxonia Fruit Preserving Company Limited—December 29, 1953.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83062

In the matter of the application of Yankcanuck Steamships Limited for a licence under section 10 of the Transport Act:

File No. 42076-48

TUESDAY, the 2nd day of February, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 279 be issued to Yankcanuck Steamships Limited licensing for the period of one year commencing January 15, 1954, the following ships to transport iron and steel products consisting of bars, billets, slabs, strip or skelp, by water between all ports and places in Canada on Lakes Ontario, Erie, Huron, (including Georgian Bay), and Superior and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Manzzutti</i>	145462	1528
<i>Mancox</i>	145465	1550

HUGH WARDROPE,
Assistant Chief Commissioner

ORDER No. 83099

In the matter of the application of Colonial Steamships, Limited, hereinafter called the "Applicant", for a licence under section 10 of the Transport Act:
File No. 42076-16

FRIDAY, the 5th day of February, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

It is ordered that Licence No. C.T.C. (W.T.) 280 be issued to the Applicant licensing, for the period of one year commencing January 15, 1954, the following ships to transport goods by water between all ports and places in Canada in the areas designated herein with respect to each ship:

1. On Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as Prescott, Ontario:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Bayton</i>	141675	4176
<i>Laketon</i>	137906	4423
<i>Mathewston</i>	141679	7403
<i>Royalton</i>	151108	7164

2. On Lakes Ontario, Erie, Huron, (including Georgian Bay) and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans:

<i>Vessel Name</i>	<i>Official Registry No.</i>	<i>Gross Tonnage</i>
<i>Brampton</i>	149435	1926
<i>Clayton</i>	161526	1925
<i>Queenston</i>	149430	1926
<i>R. H. Marshall</i>	149499	1926
<i>Donald F. Fawcett</i>	148073	1902
<i>Frank H. Brown</i>	148079	1902
<i>Frank Wilkinson</i>	161524	1940
<i>E. P. Murphy</i>	149493	1927
<i>Paul Manion</i>	149494	1927
<i>J. N. McWatters</i>	161519	1928
<i>Geo. M. Carl</i>	149475	1939
<i>J. G. Irwin</i>	149495	1927
<i>Lt. J. Misener</i>	161517	1928
<i>John A. France</i>	161518	1938
<i>Clary Foran</i>	149500	1975
<i>Ralph Misener</i>	161520	1940

HUGH WARDROPE,

Assistant Chief Commissioner.

ACCIDENTS REPORTED TO THE OPERATING DEPARTMENT,
BOARD OF TRANSPORT COMMISSIONERS FOR CANADA,
DECEMBER, 1953

Railway Accidents	207	Killed 5	Injured 219
Level Crossing Accidents	63	Killed 21	Injured 83
Total.....	270	26	302
		<i>Killed</i>	<i>Injured</i>
Passengers		2	37
Employees		1	176
Others		23	89
Total.....		26	302

DETAILS OF THE ACCIDENTS AT HIGHWAY CROSSINGS

Killed Injured

NEWFOUNDLAND

- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Nfld. 28-87.

NEW BRUNSWICK

- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: N.B. 57-295.

QUEBEC

- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. F-19675.
- 1 Automobile ran into side of track motor car. Licence: Que. 407-308.
- 5 2 Automobile ran into side of train. Licence: Que. T-16-393.
- 1 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. L-17375.
- 1 Pedestrian walked onto crossing in front of approaching train and was struck.
- 1 Auto truck ran into side of train. Licence: Que. F-92-693.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. F-16995.
- 1 — Horse-drawn wagon drove onto crossing in front of approaching train and was struck.
- 1 Horse-drawn sleigh drove onto crossing in front of approaching train and was struck.
- 2 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. 89-570.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Que. 25-780.

ONTARIO

- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 7592-Z.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 48-942.
- 1 Automobile ran into side of train. Licence: Ont. 9-Z-764.
- 1 Pedestrian walked onto crossing in front of approaching train and was struck.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 43-622-C.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 1-H-917.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 9261-R.
- 1 Automobile ran into side of train. Licence: Ont. LY-478.
- 2 Automobile ran into side of train. Licence not given.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 422-T-2.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. E-Z-383.
- 3 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: KM-684.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 3-5191.

Killed Injured

- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 617-P-7.
- 1 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 3-E-577.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-95931.
- 1 — Pedestrian walked onto crossing in front of approaching train and was struck.
- 1 Automobile skidded onto crossing in front of approaching train and was struck.
Licence: Ont. 9926-R.
- 1 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 4778-L.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 65-X-53.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. C-27872.
- 1 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Ont. 62-412-C.
- 1 — Auto truck ran into side of train. Licence: Ont. 12-899-C.
- 1 — Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 1-T-415.
- 2 Auto truck ran into side of track motor car. Licence: Ont. 79321-C.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Ont. 2-B-148.

MANITOBA

- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 6-T-702.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Man. 3-H-714.
- 3 Automobile ran into side of train. Licence: Man. 3-U-306.

SASKATCHEWAN

- 1 Automobile ran into side of train. Licence: Alta. 6-E-816.
- 2 Auto truck ran into side of train. Licence: Sask. P.U. 52.
- 1 Automobile ran into side of train. Licence: Sask. 59-290.
- 1 Auto truck ran into side of train. Licence: Sask. F-4236.
- 1 Auto truck skidded into switch stand and derailed train. Licence: Sask. 3985.
- 1 Auto truck drove onto crossing in front of car being pushed over same and was struck. Licence: Sask. C.S.-548.

ALBERTA

- 2 Automobile ran into side of track motor car. Licence not given.
- 1 — Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. F-41892.
- 3 — Auto truck stalled on crossing and was struck by train. Licence: Alta. F-40519.
- 4 Automobile ran into side of train. Licence: Alta. B-4-314.
- 2 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. F-58-479.
- 1 Automobile ran into side of train. Licence: Alta. 78-A-90.
- 5 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 92-T-58.
- 2 Automobile drove onto crossing in front of approaching train and was struck.
Licence: Alta. 95-V-47.
- 2 Auto truck drove onto crossing in front of approaching train and was struck.
Licence: Alta. X-74-449.
- 1 Automobile ran into side of train. Licence: Alta. 7-E-702.

BRITISH COLUMBIA

- 1 Auto truck ran into side of train. Licence: B.C. C-18-447.
- 3 Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. 50-117.
- 1 Automobile ran into side of train. Licence: B.C. 79-455.
- 2 Auto truck ran into side of train. Licence: B.C. C-98-406.
- 1 Automobile drove onto crossing in front of approaching train and was struck.
Licence: B.C. 57103.

Of the 63 accidents at highway crossings, 49 occurred at unprotected crossings, and 14 at protected crossings. Twenty-one occurred after sunrise and forty-two after sunset.

OTTAWA, Ont., February 5, 1954.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 82928 Jan. 18—Restricting the speed of C.N.R. trains over Lock Street, Peterboro, Ont.
- 82929 Jan. 18—Restricting the speed of trains at crossing of Lindsay Street, Lindsay, Ont.
- 82930 Jan. 18—Restricting the speed of C.N.R. trains at crossing of Durham Street, Lindsay, Ont.
- 82931 Jan. 18—In the matter of tariffs filed under the Maritime Freight Rates Act, and Order of the Board No. 82754, dated December 16, 1953, approving tolls published in Supplement to Tariff C.T.C. No. 1220 filed by the Dominion Atlantic Railway Company.
- 82932 Jan. 18—Approving Supplement to Traffic Agreement between the Bell Telephone Company and the Falkirk Telephone System.
- 82933 Jan. 18—Authorizing the C.N.R. to use the bridge over Churchill River, Manitoba.
- 82934 Jan. 18—Approving Appendix and Supplement to Traffic Agreement between The Bell Telephone Company and La Cie de Téléphone de L'Avenir.
- 82935 Jan. 18—Relieving the C.N.R. from maintaining fencing between mileages 16.5 and 17.9 (north side), Harte Subdivision, Manitoba.
- 82936 Jan. 18—Approving Supplement to Traffic Agreement between The Bell Telephone Company and the East Luther Telephone System.
- 82937 Jan. 18—Approving Supplement to Traffic Agreement between The Bell Telephone Company and the Caradoc-Ekfrid Telephone Company Limited.
- 82938 Jan. 18—Requiring the C.N.R. to install protection at first public crossing west of the station at Ste. Genevieve, Que.
- 82939 Jan. 18—Approving Supplement to Traffic Agreement between The Bell Telephone Company and the Muskoka and Parry Sound Telephone Company Limited.
- 82940 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de Weedon.
- 82941 Jan. 18—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Sioux Lookout Telephone Company Limited.
- 82942 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone de St. Rosaire.
- 82943 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and Compagnie de Téléphone St. Georges de Windsor.
- 82944 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and the Noisy River Telephones Limited.
- 82945 Jan. 18—Approving Service Station Contract between The Bell Telephone Company and The Pinnacle Telephone Company.
- 82946 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and The Coldstream Telephone System.
- 82947 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone Notre Dame de Bois.
- 82948 Jan. 18—Approving Supplement to Service Station Contract between The Bell Telephone Company and The Doe Lake Telephone Company Limited.
- 82949 Jan. 18—Approving Supplement to Traffic Agreement between The Bell Telephone Company and the Parkhill Arkona Telephones Limited.
- 82950 Jan. 18—Relieving the C.N.R. from maintaining fencing between certain mileages on its Neepawa Subdivision, Manitoba.
- 82951 Jan. 18—Authorizing the C.N.R. to use the bridge over Churchill River, South Channel, mileage 54.0 Lynn Lake Branch, Manitoba.
- 82952 Jan. 18—Authorizing the C.N.R. to use the bridge over Churchill River, North Channel, at mileage 54.5 Lynn Lake Branch, Manitoba.
- 82953 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and Le Syndicat Cooperatif de Daveluyville.
- 82954 Jan. 18—Authorizing the C.N.R. to use the bridge over the Russell River, mileage 106.4 Lynn Lake Line, Manitoba.
- 82955 Jan. 18—Approving Traffic Agreement between The Bell Telephone Company and La Compagnie de Téléphone, Wotton.
- 82956 Jan. 18—Relieving the C.N.R. from maintaining fencing between certain mileages on its Cromer Subdivision, Saskatchewan.
- 82957 Jan. 19—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the C.N.R. under sections 3 and 9.
- 82958 Jan. 19—Dismissing the application of the C.N.R. for authority to discontinue Graysville, Man, as an agency station.
- 82959 Jan. 19—In the matter of Order No. 82648, dated November 26, 1953, amending the form of Livestock Contract approved by General Order No. 298.
- 82960 Jan. 19—Approving Appendix to Traffic Agreement between The Bell Telephone Company and La Cooperative de Téléphone de Spring Hill.
- 82961 Jan. 19—Permitting the removal of slow order at C.N.R. crossing of Jones Sideroad, west of Winona, Ont.

- 82962 Jan. 19—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 82963 Jan. 20—Authorizing Mr. R. W. Clearwaters to widen his roadway over the company pipe line of the Trans Mountain Oil Pipe Line Company in Lot 2, Plan No. 1894, Block B, Plan 285, Kamloops Division, Yale District, Southeast quarter of Section 7-21-17-W6M, British Columbia.
- 82964 Jan. 20—Permitting the removal of slow order at C.N.R. crossing east of the station at Emo, Ontario.
- 82965 Jan. 20—Restricting the speed of C.N.R. trains at crossing of Main Street, Hamilton, Ontario.
- 82966 Jan. 20—Permitting the removal of slow order at C.P.R. crossing of Highway No. 7, north of Brampton, Ont.
- 82967 Jan. 20—Authorizing the C.P.R. to make changes to the approach operating circuits for the protection at the crossing of its railway and the highway at mileage 47.0 Winchester Subdivision, Ontario.
- 82968 Jan. 20—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Eastern Townships Telephone Company.
- 82969 Jan. 20—Authorizing the C.N.R. and the C.P.R. to operate their trains over the siding of The Toronto Harbour Commissioners serving the Canada Cement Company Limited, Toronto, Ont.
- 82970 Jan. 21—Restricting the speed of C.N.R. trains at crossing of Exmouth Street, Sarnia, Ont.
- 82971 Jan. 21—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of pipe lines, pumphouse, storage tank, loading and unloading points, for the handling and storage of Class II inflammable liquids at Nakina, Ont.
- 82972 Jan. 21—In the matter of approval of plan submitted to the C.N.R. by The British American Oil Company Ltd., showing the proposed location of loading and unloading points, pipe lines and pumping facilities for the handling of jet fuel at Portage la Prairie, Man.
- 82973 Jan. 21—In the matter of approval of plan submitted by the C.N.R. showing the proposed location of pipe lines, pumphouse, dykes, storage tank, loading and unloading points for the handling and storage of inflammable liquids Class II at Senneterre, Que.
- 82974 Jan. 21—Restricting the speed of trains at C.N.R. crossing of Andrew Street, Campbellton, N.B.
- 82975 Jan. 21—Restricting the speed of trains at C.N.R. crossing of 92nd Street at 106A Avenue, Edmonton, Alta.
- 82976 Jan. 21—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing their facilities for loading crude oil from tank trucks to tank cars at Smiley, Sask.
- 82977 Jan. 21—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited, showing the proposed location of connecting pipe lines, and storage tank at Bruderheim, Alta.
- 82978 Jan. 21—In the matter of approval of plan submitted by the C.N.R., showing the proposed location of pipe lines, storage tanks, loading and unloading points for the handling and storage of Bunker "C" fuel oil at Port Arthur, Ont.
- 82979 Jan. 21—Approving proposed location of pumping facilities, storage tanks of McColl-Frontenac Oil Company Limited, near the C.N.R. tracks at Vermilion, Alta.
- 82980 Jan. 22—Permitting the removal of slow order at C.N.R. crossing of Castlefield Avenue, Toronto, Ont.
- 82981 Jan. 22—In the matter of approval of plan submitted to the C.N.R. by Imperial Oil Limited showing proposed location of storage tanks, etc., at Fredericton, N.B.
- 82982 Jan. 22—Authorizing the City of Fredericton, N.B., to construct Clark Street across the C.P.R. in the City of Fredericton, N.B.
- 82983 Jan. 22—Authorizing the City of Fredericton, N.B., to construct Hughes Street across the C.P.R. in the City of Fredericton, N.B.
- 82984 Jan. 22—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 82985 Jan. 25—Requiring the C.P.R. to install protection at crossing of Cote St Louis Road, mileage 33.15 Lachute Subdivision, Quebec.
- 82986 Jan. 22—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 7, north of Sunderland, Ontario.
- 82987 Jan. 22—Relieving the C.N.R. from erecting fencing at certain mileages on their Rosburn Subdivision, Saskatchewan.
- 82988 Jan. 22—Approving location of C.N.R. freight and passenger shelter at Bannock, Saskatchewan.
- 82989 Jan. 22—Authorizing the C.P.R. to construct the branch line of Railway (industrial spur) commencing at a point on its Willingdon Subdivision at mileage 85.93 near Two Hills, Alberta, for a distance of six miles.

- 82990 Jan. 22—Authorizing the Interprovincial Pipe Line Co. to open for the transport of oil a section of its company pipe line in the vicinity of the City of Edmonton, Alberta.
- 82991 Jan. 22—In the matter of application of the C.P.R. for approval of plan showing protection as installed at the crossing of its railway and the private road of the Department of National Defence at Bouchard, Quebec.
- 82992 Jan. 22—Authorizing the Ontario Northland Railway to publish a rate of \$34.60 per net ton of silver ore or concentrates from Cobalt and Elk Lake, Ontario, to El Paso, Texas, with a declared valuation of not exceeding \$100.00 per net ton.
- 82993 Jan. 22—Authorizing the Ontario Department of Highways to construct Highway No. 17 across C.N.R., by means of an overhead bridge at mileage 19.7 Vankleek Subdivision, County of Prescott, Ontario.
- 82994 Jan. 22—In the matter of application of Canadian Freight Association for approval of agreed charge between C.N.R., C.P.R. and other Railways and Dow Chemical of Canada Limited on Latex from Sarnia, Ontario, to stations set out in paragraph C(2) of the Agreed Charge.
- 82995 Jan. 22—Permitting the removal of slow order at C.N.R. crossing of Lancaster Street at Kitchener, Ont.
- 82996 Jan. 22—In the matter of application of the C.N.R. and C.P.R. for authority to operate their trains over the siding of the Toronto Harbour Commissioners serving the Hydro-Electric Power Commission of Ontario on the north side of Unwin Avenue, Toronto, Ontario.
- 82997 Jan. 22—Permitting the removal of slow order at the C.P.R. crossing west of the west switch at North Rosetown Yard, Saskatchewan.
- 82998 Jan. 22—Permitting the removal of slow order at C.N.R. crossing west of Munson Junction, Alberta.
- 82999 Jan. 25—In the matter of changes of rate grouping of certain telephone exchanges of the British Columbia Telephone Company.
- 83000 Jan. 25—Permitting the removal of slow order at C.N.R. Highway No. 5 west of the station at Dauphin, Manitoba.
- 83001 Jan. 25—Restricting the speed of C.N.R. trains at crossing of Christina Street, Sarnia, Ontario.
- 83002 Jan. 25—Authorizing the C.N.R. to reconstruct timber bridge over the creek at mileage 106.3, Skeena Subdivision, British Columbia.
- 83003 Jan. 25—Relieving the C.N.R. from maintaining fencing between certain mileages on their Hartney Subdivision, Manitoba.
- 83004 Jan. 26—Authorizing the C.N.R. to discontinue operation of mixed trains between Leyland and Cadomin, Alberta.
- 83005 Jan. 26—Requiring that all train movements over C.N.R. crossing of its spur track and 104th Avenue in the City of Edmonton, be protected by a flagman.
- 83006 Jan. 26—Authorizing the C.N.R. to close Cadomin, Alberta, as an agency.
- 83007 Jan. 26—Restricting the speed of C.N.R. train at crossing of Lorne Street east of station at Gladstone, Manitoba.
- 83008 Jan. 26—Approving proposed location of storage tank, etc., of Imperial Oil Limited near C.P.R. tracks at Dewberry, Alberta.
- 83009 Jan. 26—In the matter of approval of plan submitted to the C.P.R. by the McColl-Frontenac Oil Company Limited showing proposed location of storage tank, etc., at Medicine Hat, Alberta.
- 83010 Jan. 26—Permitting the removal of slow order at C.P.R. crossing and Highway No. 95 at mileage 98.1 Cranbrook Subdivision, British Columbia.
- 83011 Jan. 26—Restricting the speed of C.P.R. train at Jacques Cartier Street, north of station at Farnham, Quebec.
- 83012 Jan. 26—Directing the C.P.R. and C.N.R. to construct an overhead bridge across the right-of-ways of the two railways on the old Weston Road Highway (Rogers Road) Township of York, Ontario.
- 83013 Jan. 26—In the matter of approval of plan submitted to the C.N.R. by McColl-Frontenac Oil Company Limited showing proposed location of storage tanks, etc., at Chicoutimi, Quebec.
- 83014 Jan. 26—Permitting the removal of slow order at C.N.R. crossing of Provincial Highway No. 60 east of station at Barry's Bay, Ontario.
- 83015 Jan. 26—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8.
- 83016 Jan. 26—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8.
- 83017 Jan. 26—Authorizing the C.N.R. to use the bridge at Boyne River, Manitoba.
- 83018 Jan. 26—Permitting the removal of slow order at C.N.R. crossing west of Bowring Park, Newfoundland.

- 83019 Jan. 27—In the matter of application of Halton County Council for an order amending Order No. 79832, dated September 29, 1952, which authorized the improvement of the sight lines at the crossing of Guelph Line Road and the C.N.R. in the Township of Nelson, Ontario.
- 83020 Jan. 27—Approving location and details of the C.N.R. station shelter to be erected at Lower Argyle, Nova Scotia.
- 83021 Jan. 27—Authorizing the C.N.R. to use the bridge at mileage 174·9 Gladstone Subdivision, Manitoba.



BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

JUDGMENT

RATE BASE - RATE OF RETURN

Judgment of Chief Commissioner, Mr. Justice John D. Kearney, concurred in by Assistant Chief Commissioner, Mr. Hugh Wardrope and Mr. Commissioner Overton A. Matthews.

FEBRUARY 15, 1954.



The Board of Transport Commissioners for Canada

Vol. XLIII

Ottawa, February 15, 1954

No. 22A

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of The Railway Association of Canada, and more particularly of the Canadian Pacific Railway Company, for the establishment by the Board of the net investment of the said company in its railway property and for the constitution of the said net investment as a rate base and for the fixing of a fair rate of return on such rate base and thereupon for a general increase in freight rates and tolls of 9 per cent and for other ancillary relief.

File No. 46920-1

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

HUGH WARDROPE, *Assistant Chief Commissioner.*

OVERTON A. MATTHEWS, *Commissioner.*

Appearances:

J. L. O'BRIEN, Q.C., for The Railway Association of Canada and the Canadian Pacific Railway Company.

Hugh E. O'DONNELL, Q.C., for The Railway Association of Canada and the Canadian National Railways.

F. C. S. EVANS, Q.C., I. D. SINCLAIR, K.D.M. SPENCE and G. P. MILLER for the Canadian Pacific Railway Company.

A. K. DYSART and A. H. HART, for the Canadian National Railways.

M. A. MACPHERSON, Q.C., for the Province of Saskatchewan.

F. D. SMITH, Q.C., and RAND H. MATHESON, for the Maritimes Transportation Commission on behalf of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland.

J. J. FRAWLEY, Q.C., for the Province of Alberta.

C. D. SHEPARD, Q.C., for the Province of Manitoba.

C. W. BRAZIER, for the Province of British Columbia.

INDEX TO JUDGMENT

	PAGE No.
INTEGRATED OUTLINE OF THIS APPLICATION OF THE RAILWAY ASSOCIATION OF CANADA.....	5
BRIEF OUTLINE OF THE HISTORY AND DEVELOPMENT OF THE REQUIREMENTS METHOD IN DETERMINING A PERMISSIVE LEVEL OF RATES.....	11
BRIEF OUTLINE OF THE PRINCIPLES UNDERLYING THE RATE BASE-RATE OF RETURN METHOD IN DETERMINING A PERMISSIVE LEVEL OF RATES..	15
THE REQUEST THAT THE BOARD DETERMINE THE NET INVESTMENT IN THE RAIL ENTERPRISE OF THE CANADIAN PACIFIC RAILWAY COMPANY:	
(i) Desirability from the Board's point of view of Determining the Net Rail Investment of Canadian Pacific.....	16
| and Findings of the Board in respect thereof.....	18
(ii) Nine (9) basic Accounting, Financial and Policy Factors deemed by the Board to be inherent in the overall determination of the Net Rail Investment of Canadian Pacific for the purposes of this Application.....	18
—Basic factors (1) to (6), primarily of an Accounting and Financial nature, covered in the printed report of our Financial Adviser's firm, Messrs. Riddell, Stead, Graham & Hutchison, dated October 26th, 1953.....	19
| and Findings of the Board in respect thereof.....	19
—Basic factor (7): Advisability and necessity of making a Physical Inventory and Valuation of rail properties.....	20
| and Findings of the Board in respect thereof.....	23
—Basic factor (8): Exclusion from or inclusion in Net Rail Investment of Donations and Grants—either as a whole or in part.....	23
| and Findings of the Board in respect thereof.....	41
—Basic factor (9): Reasonableness of the amount of Working Capital Allotment in Net Rail Investment.....	41
| and Findings of the Board in respect thereof.....	41
—Included in basic factor (1): Allocation of Communications Property to Net Rail Investment.....	42
| and Findings of the Board in respect thereof.....	43
(iii) | Amount of the Net Rail Investment of Canadian Pacific adopted by the Board for use as <i>ONE</i> of the "end" tests in considering the reasonableness of a permissive level of rates...	43
(iv) Summarized Reconciliations between the differing amounts of the Net Rail Investment as put forward by the Canadian Pacific and as conditionally recommended by our Financial Adviser's firm on the one hand, and the amount adopted by the Board, on the other.....	44

{ THE REQUEST THAT THE BOARD ESTABLISH THE NET RAIL INVESTMENT
THUS FOUND FOR CANADIAN PACIFIC AS A RATE BASE,

AND

{ THE REQUEST THAT THE BOARD RENDER A DECLARATORY JUDGMENT
STATING THAT NOT LESS THAN $6\frac{1}{2}$ PER CENT IS A FAIR RETURN ON SUCH
RATE BASE:

(i) Initial approach to these requests..... 46

(ii) Merits of the principles underlying the Rate Base-Rate of
Return Method which, within the meaning of this Application,
would be the sole method of determining a permissive level of
rates..... 48

| and Findings of the Board in respect thereof..... 55

(iii) | Ancillary findings of the Board in respect of the Rate Base and
 $6\frac{1}{2}$ per cent return factors..... 57

THE CONDITIONAL REQUEST THAT THE BOARD GRANT A FURTHER
9 PER CENT GENERAL INCREASE IN FREIGHT RATES..... 57

| and Findings of the Board in respect thereof..... 57

THE IMPLIED REQUEST FOR A DECLARATION BY THE BOARD AS TO A
FAIR RATE OF RETURN ON THE NET RAIL INVESTMENT OF CANA-
DIAN PACIFIC WITHOUT REGARD TO THE METHOD USED IN DETER-
MINING A PERMISSIVE LEVEL OF RATES..... 58

| and Findings of the Board in respect thereof..... 64

COMMENTS ON SUBMISSION IN RESPECT OF CONFISCATION..... 64

SUPPLEMENTARY OBSERVATIONS:

(i) Relevancy of certain factors in determining a permissive level
of rates and the Board's duty with respect thereto..... 66

(ii) Unique Character of Canadian Rate-making Problems..... 66

(iii) Canadian Pacific Modernization Program..... 67

(iv) Reference to Board's Judgment of March 6th, 1953..... 69

(v) Utility of Formulae and Methods in Rate-making..... 70

(vi) Need of Railway Regulation..... 71

SUMMARY OF CONCLUSIONS..... 71

JUDGMENT

KEARNEY, J., Chief Commissioner:

This judgment pertains to certain sections of the application of The Railway Association of Canada, dated July 14, 1952, as subsequently amended (hereinafter sometimes referred to as the later application), and it also concerns Part III of the application of The Railway Association of Canada dated December 21, 1950 (hereinafter sometimes referred to as the earlier application).

Our judgment dated October 24, 1952, disposed of that part of the later application which requested authority for an immediate general increase of 8 per cent (10¢ to 20¢ per ton on coal and coke), which judgment dismissed that application.

On January 20, 1953, however, the applicants amended the later application and requested the Board to authorize an immediate general increase of 7 per cent (10¢ to 20¢ per ton on coal and coke), at the same time alleging that this new request for an immediate increase was based on changed circumstances from those prevailing when the Board's judgment of October 24, 1952, was rendered. That part of the later application thus amended was allowed by our judgment dated March 6, 1953.

I will not here repeat the observations I made in the last mentioned judgment regarding the demerits of applications containing multiple requests, the unsatisfactory and confusing procedure under which the case was presented to us, nor the means indicated by the Board to prevent such a recurrence in future cases. There remain to be dealt with paragraphs 9 (as amended on January 20, 1953), 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the later application.

For the moment I will concern myself with paragraphs 13 and 14 of this later application, which read as follows:

"13. The 17% judgment disposed of Parts I and II of the application of The Railway Association of Canada dated December 21, 1950, as amended. Part III of the said application which included a request that the Board establish for Canadian Pacific a rate base representing the net investment in its railway property and a request that the Board fix for Canadian Pacific a fair rate of return on such rate base was, by direction of the Board given on December 18, 1951, refiled on January 19, 1952, as a separate application.

"14. Canadian Pacific requests (and the member companies other than Canadian Pacific concur in such request), that the aforesaid Part III of said application as refiled be consolidated herewith and be considered as incorporated herein save that Canadian Pacific does not renew its request for an audit of its rail investment account unless the Board considers such an audit to be necessary."

Without discussing the circumstances under which it came about I think it necessary to consider that Part III of the earlier application be looked upon as having been incorporated in the later application. The paragraphs of Part III of the earlier application, when it was refiled as a separate one, were re-numbered as paragraphs 1 to 8 respectively. For clarity's sake I will make use of the re-numbering just mentioned, and as the 7 per cent immediate increase has been allowed I have slightly altered the reference to it in paragraphs 9 and 10 of the later application, so that the earlier and later applications may, despite some inherent overlapping and as far as circumstances permit, appear as a single application (hereinafter sometimes referred to as the application).

Part III of application dated December 21, 1950—

"1. Canadian Pacific hereby applies to the Board to establish for it a rate base representing the net investment in its railway property and to fix for Canadian Pacific a fair rate of return on such a rate base. The member companies, other than Canadian Pacific, in view of the use of Canadian Pacific as the 'yardstick' as hereinafter set forth, concur in the application of Canadian Pacific for the establishment of such a rate base and the fixing of a fair rate of return thereon.

"2. For many years the level of railway rates in Canada has been determined by the Board using Canadian Pacific as the 'yardstick'. The member companies other than Canadian National Railways (hereinafter called 'Canadian National') and Canadian Pacific, recognize that since their railway operations are limited in extent, they could not expect to be used, either individually or as a group, as the 'yardstick' for railway rates in Canada.

"3. The member companies are content that Canadian Pacific should continue to be used as such 'yardstick' for rate making purposes. Canadian National is not at present in a position to establish a rate base of its own and its consent to the continued use of Canadian Pacific as the 'yardstick' is given without prejudice to its right at any time to take a different position.

"4. In support of the application under this Part, Applicant submits the following:—

(a) The fixing of freight rates on the basis of the 'requirements' as established by the Board is unfair and unreasonable both to the users of railway service and to the member companies.

It is unfair and unreasonable to the users of railway service because, among other things, the basis used by the Board puts a premium upon unsound financial practices and, if unrelated to investment in railway property, might in certain circumstances result in a level of rates more costly to such users of railway service.

It is unfair and unreasonable to the member companies because, among other things, such a basis exposes the owners of railway equity securities to the risk that they will not obtain a fair return on the amount of their investment. It thereby makes it difficult for the member companies to secure the capital required from time to time whether by way of fixed interest securities or by way of equity securities and tends to increase the cost of such capital.

(b) In the 8% judgment the Board discussed but did not make any finding on the question as to the amount of the investment in railway property or on the question as to what rate of return on said investment would be fair and reasonable to Canadian Pacific.

"5. Canadian Pacific submits that the net investment in its railway property upon which it is entitled to earn a fair return was \$1,074,859,339 at December 31, 1949 and that the rate of return on such net investment should be not less than 6½%.

"6. Canadian Pacific hereby requests (the other member companies concurring in such request) that the Board undertake an audit of the rail investment account of Canadian Pacific and proposes that this audit should be undertaken at the earliest possible date by the Board's experts or by independent experts to be appointed by the Board. Canadian Pacific hereby

undertakes to pay the cost of such an audit as certified by the Board. It is respectfully submitted that such an audit is desirable irrespective of the basis on which financial need is to be established.

"7. Notice is hereby given that upon determination by the Board of the net investment in railway property of Canadian Pacific and of a fair rate of return thereon, the Applicant will propose such increases in the tolls or rates of the member companies as may, in the light of such determination, be necessary.

"8. Applicant hereby prays for such further and other relief including, without limiting the generality of the foregoing, such further increases in tolls or rates of the member companies as changes in conditions and in the facts and financial needs after the filing hereof, may warrant."

Application dated July 14, 1952, including all subsequent amendments—

"9. Applicant also hereby applies for authority to make, forthwith upon the establishment by the Board for the Canadian Pacific of a rate base representing the net investment in its railway property and the determination of a fair rate of return thereon as hereinafter requested, a further general increase of 9% and from 10¢ to 20¢ per ton on coal and coke (in addition to the immediate increase of 7% and from 10¢ to 20¢ per ton on coal and coke, granted by judgment dated March 6, 1953) in the tolls or rates of the member companies in the manner outlined in Schedule 'B' hereto.

"10. It is estimated that the increase of 7% granted in the judgment of March 6th last and that requested in paragraph 9 hereof would provide for Canadian Pacific an increase in gross revenue of \$37,377,462 and total net railway earnings of \$56,872,380 for a constructive year. Such a level of net railway earnings would provide for Canadian Pacific a return of less than 5% on its net rail investment as at December 31, 1951, of \$1,146,664,833.

"11. The net investment in the rail enterprise of Canadian Pacific as at December 31, 1951, as computed by the Board for purposes of the 17% judgment was stated to be approximately \$1,100,000,000, whereas the said net investment as recorded in the books of Canadian Pacific on the said date was \$1,146,664,833. Canadian Pacific submits its rail investment as recorded in its books is substantially less than original cost or replacement cost and is a most conservative base for rate-making purposes and should therefore be accepted by the Board.

"12. The member companies are content that Canadian Pacific should be used as the 'yardstick' for rate-making purposes in this application without prejudice, however, to their right in any subsequent application to take a different position.

"13. The 17% judgment disposed of Parts I and II of the application of The Railway Association of Canada dated December 21, 1950, as amended. Part III of the said application which included a request that the Board establish for Canadian Pacific a rate base representing the net investment in its railway property and a request that the Board fix for Canadian Pacific a fair rate of return on such rate base was, by direction of the Board given on December 18, 1951, refiled on January 19, 1952, as a separate application.

"14. Canadian Pacific requests (and the member companies other than Canadian Pacific concur in such request), that the aforesaid Part III of said application as refiled be consolidated herewith and be considered as

incorporated herein save that Canadian Pacific does not renew its request for an audit of its rail investment account unless the Board considers such an audit to be necessary.

"15. Canadian Pacific submits that if it is precluded from establishing its tolls or rates at such a level as will enable it to earn a fair return upon the net investment in its railway enterprise, its tolls or rates would be less than would be just and reasonable and would be confiscatory.

"16. Canadian Pacific hereby requests that the Board fix as fair for Canadian Pacific in respect of its railway enterprise, a return of not less than $6\frac{1}{2}\%$ upon the net investment in such railway enterprise.

"17. While the increases for which approval is sought herein will be insufficient to provide for Canadian Pacific a fair return for a constructive year or for the year 1953, Canadian Pacific submits under reserve of its rights, it should not be precluded from earning more than the inadequate return that such increases are now estimated to provide if as a result of future trends in traffic and in operating costs or otherwise, a more nearly fair return may be earned.

"18. Applicant further submits that the relief sought herein is the minimum necessary to provide a level of rates which is just and reasonable to the member companies.

"19. Applicant hereby applies for such further and other relief including, without limiting the generality of the foregoing, such further increases in tolls or rates of the member companies as changes in conditions and circumstances after the filing hereof may warrant.

"20. Applicant hereby requests the Board to include as part of its Order disposing of this application, permission to the member companies to file on the same terms as to notice as apply to the general increases therein authorized, tariffs increasing to an equivalent extent any or all of their competitive tolls."

The application for the 7 per cent immediate general increase and the application for a rate base and rate of return were heard at the same Board sitting, but since, as previously stated, judgment was rendered on March 6, 1953, allowing the 7 per cent increase on grounds of altered circumstances, the Board can now look upon the matters appertaining to the rate base and rate of return application singly and separately.

In his opening argument Mr. J. L. O'Brien, Q.C., stated that, with the concurrence of The Railway Association of Canada, the Canadian Pacific was reiterating, subject to intervening amendments, the same request as was contained in Part III of the 1950 application, and that he and his associates acting as representatives of the above mentioned railway were assuming responsibility for all supporting evidence in connection therewith.

Mr. Hugh E. O'Donnell, Q.C., of counsel for the Canadian National Railways, confined his argument to that portion of the application which requested a 7 per cent immediate increase, and which, as we have said, has been disposed of, and upon being urged by counsel for the respondents to clarify the attitude of the Canadian National Railways as to the proposed new method of determining freight rates, stated, at p. 6793 (Vol. 908) of the transcript, that the attitude of the Canadian National Railways was that the Canadian Pacific Railway was entitled to have this application considered by the Board but that

the Canadian National Railways had not and did not intend to call any witnesses with respect thereto. Again at p. 2859 (Vol. 916) of the transcript he stated:—

“The yardstick line (Canadian Pacific) now wants to have the Board examine another method of determining freight rates. The Canadian Pacific wants the Board to determine another method of determining freight rates.

“The Canadian National Railways have no desire to adopt the contentions of either the party proposing or the parties contesting the application of the Canadian Pacific which is the subject matter of the present hearing. The Canadian Pacific is entitled to its day in court on the issue which it has of its own accord presented to the Board in this hearing. The Canadian National considers that that is a fair (statement of) its attitude to both parties”

Also at p. 6788 (Vol. 908):—

“I do not think there is any doubt as to where the Canadian National stands in this application, and I do not think anyone who studies the application could have any doubt as to where we stand. We stand for just and reasonable rates on any basis the Board may choose to fix them. The Board under the law, as I understand it, is completely free to select whatever method or way of doing it that it sees fit. The Board's duty is to determine and establish just and reasonable rates.

“Insofar as that duty is to be carried out, we say the Board will have to use its own best judgment in the final result. I have not anything more to say about the purpose of this application. The Canadian Pacific, I think, is entitled to have its rate base determined if the Board sees fit to do so, but it does not affect the position of other railways or the Board's duty.”

While it is true that the Canadian National Railways have adopted a noncommittal attitude with respect to the Canadian Pacific's request for the establishment of a method of determining rates and tolls called the “rate base-rate of return method” in lieu of what is called the “requirements method” which the Board has made use of in recent years, nevertheless Canadian National Railways and other members of The Railway Association have joined in the request for such increase in rates as would follow if the proposed new method were adopted by the Board.

The application before us is both unique and important. From the point of view of provincial counsel its prime importance arises from the fact that the Board is asked to abandon the use of what is called the requirements method, in fixing just and reasonable rates, and henceforth adopt a formula which is known as the rate base-rate of return method, and because upon acceptance by the Board of the rate base-rate of return method as proposed we are asked to grant, subject to certain exceptions, a further general increase of 9 per cent in rates and tolls.

Canadian Pacific has stressed the desirability of having its net investment in its rail enterprise determined irrespective of the basis on which its financial need is to be established.

Without attempting to weigh the relative importance of the two foregoing aspects of the case, I might say that because of its ramifications the question of determining the aforesaid net investment has necessitated much investigation, research and consideration by the Board, which accounts for the extended manner in which the net investment topic is dealt with herein.

In any event it is the first time that such an application has been filed with the Board and the importance which is attached to it by all concerned may

be judged by the voluminous record, the number and quality of the expert witnesses who appeared before us, and the extensive arguments made by distinguished counsel who appeared both on behalf of the applicants and respondents. Mr. M. A. MacPherson, Q.C., Counsel for the Province of Saskatchewan, in his opening remarks (p. 6365 Vol. 908) stated—

“Now, I do not think, my lord and members of the Board that I am overstating the case when I say that no more important application has ever been made to this Board than the one that is presently before you.”

We have attempted as far as possible to divide the multiple secondary and ancillary issues involved which require to be resolved and which constitute almost a series of cases within a case under individual headings. Some of the issues, however, are so correlated that the same considerations apply to several of them and although we have tried to minimize it, in some instances we have repeated ourselves rather than oblige the reader to turn back pages in order to find a previous reference.

Hearings commenced on November 10, 1952, and, after suspension during the Christmas Season, concluded on February 5, 1953. Transcription of the evidence and argument covers thousands of pages, and in addition to the viva voce evidence of the witnesses, 192 exhibits, including statistical data and graphs, were filed. Nineteen days of hearing were consumed in giving evidence exclusive of the 7 per cent case and the argument of counsel which lasted four days. There were also two days of supplementary argument and evidence in October, 1953, in connection with “donations and grants”.

Counsel for both the applicants and respondents are to be commended for the manner in which they presented their argument. By apportioning particular aspects of the case to particular counsel overlapping and repetitious argument was avoided. The various counsel appearing for the Canadian Pacific adopted each others argument and the same was true of counsel who appeared for the respondents, and thus what might have proved to be a very long presentation of the case was reduced to a minimum.

Although, as I have said, it is the first time that an application solely resting upon a rate base-rate of return method of determining rates and tolls has been placed before the Board, historically speaking the principle of a rate base-rate of return on invested capital is not entirely new in respect of rail rate regulation in Canada.

At the time the Canadian Pacific Railway was incorporated in virtue of 44 Vict., c. 1, in 1881, rate control generally over other railways was vested in the Governor in Council and Parliament by the Consolidated Railway Act, 1879 (42 Vict., c. 9). A glance at the two above mentioned statutes indicates that the rate regulatory powers of the Governor in Council and Parliament were related and had reference to a return upon invested capital. The Canadian Pacific was given a discretionary power to fix tolls, subject to a provision that under certain circumstances the Governor in Council and Parliament could reduce the tolls to the extent that they would not, when reduced, produce less than 10 per cent profit on the capital actually expended in the construction of the railway. Broadly speaking, the rate base-rate of return method now suggested to us differs from the one in vogue in 1881 in that in 1881 the Canadian Pacific had power to establish tolls subject to the 10 per cent provision above mentioned, whereas by the presently suggested method the Canadian Pacific seeks permission to establish tolls on the basis of a fair rate of return, claimed to be not less than 6½ per cent, but only to be implemented at the present time to the extent of 5 per cent, on the net investment in its railway enterprise. There is also this material difference that in 1881 the powers of the Governor in Council

and Parliament only came into play after actual profits in excess of the 10 per cent limitation had been experienced, whereas regulation now proceeds on a basis of continuing control and in respect of general revenue cases by delimiting in advance the opportunity to earn such profits. We should add that at present the body entrusted with railway rate regulation is the Board of Transport Commissioners. The Governor in Council, of course, has power to vary or rescind the Board's orders. The Board, under the Railway Act passed in 1903 and subsequent amendments, has more extensive powers in respect of rate regulation than were possessed by the Governor in Council under the statutes above referred to.

Before dealing individually with the various phases of the application, so that "he who runs may read", I think I should set out the historical background and development of the "requirements method" and describe briefly the proposed "rate base-rate of return method" because, as the Royal Commission on Transportation, 1951, remarked in its report, "rate making is important both to the public and the railways."

BRIEF OUTLINE OF THE HISTORY AND DEVELOPMENT OF THE REQUIREMENTS METHOD IN DETERMINING A PERMISSIVE LEVEL OF RATES

For some years prior to World War II the Board had not been called upon to deal with any application for a general increase in freight rates, and during the period 1941-47 freight rates had been frozen by the Wartime Prices and Trade Board Regulations. However, in October 1946, The Railway Association of Canada, on behalf of its member companies, sought, subject to certain exceptions, a general increase in freight rates amounting to 30 per cent. The application was based on the need of the railways for additional revenue due to a decline in railway gross earnings and a very substantial increase in railway operating costs, brought about by increases in wages and the cost of materials, which had resulted in a serious decline in railway net earnings.

The examination of the financial situation of the railways was directed throughout the proceedings almost entirely to the two major systems, the Canadian National Railways and the Canadian Pacific Railway, and these two railways went about establishing their financial need by presenting evidence and numerous statements and exhibits in respect of railway revenues and expenses for 1946 and a number of prior years, together with estimates for 1947. Actual results for 1947 became available before the judgment, commonly called the 21 per cent Judgment, was rendered on March 30, 1948.

The Canadian National and Canadian Pacific, after providing for working expenses, including taxes, stated their financial needs, based on the year 1947, to be as follows:

	Canadian National	Canadian Pacific
	\$	\$
Fixed Charges	44,745,000	18,000,000
Dividends	—	21,310,000
Net additions and betterments to railway property after retirements	16,777,000	15,235,000
	<u>61,522,000</u>	<u>54,545,000</u>

The \$21,310,000 of dividends were calculated on the basis of 4 per cent on paid-up preferred stock and 5 per cent on paid-up common stock.

The foregoing was the nucleus of what has come to be known as the "requirements" basis or formula. It was subsequently modified and applied in later cases as appears hereinafter.

The Board was faced in that case with a decision as to whether one or more than one or all of the railways would be taken as the guide or measure by which to determine just and reasonable rates. The Board found that none of the smaller railways could properly be so taken and also decided that the financial requirements of the Canadian Pacific should be taken as such guide or measure—hence the Canadian Pacific has come to be known as the “yardstick” company. In so deciding, the Board stated that some regard must be had to the needs of all the railways, but, as there could only be one rate for all railways the Board should endeavour to arrive at a just and reasonable mean between the railways in fixing the rates, which could best be accomplished by taking the requirements of the Canadian Pacific Railway Company as the guide or measure. The Board also stated in that connection that it could not accept the contention of Counsel for the respondents that the requirements of the Canadian National Railways should be entirely disregarded.

During the course of the argument Counsel for the respondent provinces submitted that, using Canadian Pacific as the yardstick, an apportionment of its fixed charges, dividends and income tax should be made as between its rail enterprise and its ancillary services of a non-rail transportation nature. The provinces also contested the amount of \$15,235,000 claimed by Canadian Pacific for “Additions and Betterments to Railway Property”. The Board in its 21 per cent Judgment granted authority to make a 21 per cent general increase in freight rates and in doing so—and upon the basis set forth therein as being reasonable—initially allowed in full as “requirements” of the Canadian Pacific in respect of 1947 the amount claimed in respect of fixed charges and dividends and did not make any apportionment between rail and non-rail enterprises of such fixed charges and dividends. The Board also allowed the sum of \$15,235,000 claimed by Canadian Pacific for “Additions and Betterments”, but stated that the amount was being allowed as a reasonable surplus requirement. In its judgment on that application the Board recognized the principle of segregating the corporate income taxes as between the railway operations and the Other Income of the Company.

Thus, by the judgment the financial requirements of the Canadian Pacific in respect of 1947, over and above operating expenses, were initially allowed at the sum of \$54,545,000 claimed by the Company but later were amended on the basis of actual results to \$52,332,174.

The respondent provinces appealed the 21 per cent Judgment to the Governor in Council and on October 12th, 1948, the Governor in Council passed Order in Council P.C. 4678, part of which is recited as follows:

“The Committee are favourably impressed with the view that income derived by the Railways from sources other than their railway transportation operations should not be entirely excluded by the Board in determining the corporate needs of the Railways. The payment of fixed charges and income taxes are corporate obligations of corporations as such, and the incomes of corporations, whatsoever their source are liable therefor; provisions to be made for dividends and a surplus are likewise corporate needs and should be so considered. For these reasons, the Committee are of the opinion that some portion of the corporate needs should be borne by the income derived from non-railway operations.

“The Committee are further of the opinion that an investigation should be made by the Board in order to determine the apportionment to be made, between railway earnings and other income, of fixed charges, depreciation, income taxes, dividends and surplus, and that the several subjects of complaint set forth in the petition should be referred to the Board to be dealt with

by the Board pursuant to the terms hereof in so far as they are hereby determined, and otherwise as the Board may deem proper on such further investigation as the Board may consider to be warranted by the representations of the petitioning governments and the Railways, and by other developments subsequent to the Board's Order No. 70425.

"Reference was made before the Committee to the substantial increases in the operating costs of the Railways since the effective date of the Board's Order No. 70425 and their resulting adverse effect on the position of the Railways. In this connection, the Committee observe that, since the filing of the petition, the Railways on the one hand, have applied to the Board for a further increase in freight rates and, on the other hand, have benefited from certain increases in international freight rates and have themselves made increases in their substandard competitive freight rates.

"The Committee therefore advise that the Board be directed to consider in the light of such changes in conditions of operations as have or will have taken place, the complaints set forth in the petition concurrently with the pending application for a further increase in freight rates, and that the disposition by the Board of the matters set forth in the petition and any revision of Order No. 70425 that may result from such consideration be made by the Board in relation to its disposition of the said pending application."

The review of the 21 per cent Judgment, which was directed by the Order in Council, and the Railway Association's application dated July 27, 1948, for a further 20 per cent general increase, referred to in the Order in Council, were dealt with concurrently by the Board and resulted in a judgment dated September 20, 1949. In that judgment the Board, after making certain adjustments with respect to working expenses such as depreciation and income taxes, apportioned and allocated the Canadian Pacific's fixed charges \$12,802,702 to its rail enterprises and \$2,984,472 to its non-rail enterprises. The judgment did not disturb the findings in the 21 per cent Judgment in respect of surplus (\$15,235,000), or dividends (\$21,310,000) or further apportion these amounts between rail and non-rail enterprises.

In subsequent judgments dated February 28, 1950 (16 per cent), and May 11, 1950 (20 per cent), the Board adopted the revised formula of the September 20, 1949, judgment and after adjusting dividend requirements to reflect the reduction in payments necessary on preferred stock held in devalued areas, fixed the 1949 requirements of the Canadian Pacific as follows: fixed charges \$11,718,579, dividends \$20,623,000, allowance for surplus \$15,235,000, total \$47,576,579.

The respondent provinces appealed the 16 per cent and 20 per cent judgments, and Orders Nos. 74034 and 74512 made pursuant thereto, to the Governor in Council, and in Order in Council P.C. 5652 dated November 29th, 1950, the Governor in Council, in dismissing the appeal, stated in part as follows:

"The Petitioners have asked that the said Orders of the Board numbered 74034 and 74512 and the Judgments relating thereto be vacated, set aside or varied, or in the alternative, that the said Orders and Judgments be remitted to the Board with specific directions respecting dividends, corporate surplus, other income, maintenance charges, revenue deficiency, and the fixing of just and reasonable rates."

"The Committee having carefully considered the representations made by the Petitioners and having weighed the arguments submitted by Counsel for the Petitioners and for the Railways are unable to find that the Petitioners have discharged the onus upon them of proving that the Board of Transport Commissioners erred in making the said Judgments or Orders numbered 74034 dated March 1, 1950 and 74512 dated May 25, 1950."

In an application dated December 21, 1950, seeking authority to make further general increases in freight rates, the Railway Association asked that Canadian Pacific's requirements for surplus be increased to \$19,775,000, being \$4,540,000 higher than the \$15,235,000 previously allowed by the Board. In its 12 per cent interim Judgment thereon, dated July 4, 1951, the Board for the purposes of that interim Judgment declined to change the allowance for surplus but stated that the whole matter of surplus should be reviewed at a later hearing. Dividend requirements from rail enterprise were allowed at \$20,101,000 for 1951, being the previously allowed 5 per cent and 4 per cent for common and preferred stock respectively.

In its 17 per cent Judgment dated January 25, 1952, the Board once again allowed as the C.P.R. requirements the sum of \$15,235,000 as surplus or retained earnings, \$11,308,000 as the proportion of fixed charges allocated and apportioned to rail enterprise, and \$20,101,000 representing 5 per cent and 4 per cent on common and preferred stock respectively, a total "requirements" of \$46,644,000, and the judgment stated that in determining the earning requirements of the Canadian Pacific the same formula had been used as previously used in the 12 per cent interim Judgment and in several immediately preceding judgments. In my notes I commented that the Board should scrutinize the formula with a view to improving it.

In its 7 per cent Judgment dated March 6, 1953, the Board again adopted the said "requirements" basis or formula that had emerged from the series of post-war revenue cases above referred to and used the sum of \$46,644,000 as an amount sufficient to provide overall for fixed charges, dividends and surplus of the Canadian Pacific for the constructive year 1952 and for the estimated year 1953. The judgment referred to the fact that for the purposes of the application in respect of an immediate 7 per cent increase the Railway Association not only had accepted the requirements basis or formula used by the Board in the 17 per cent Judgment but also had accepted the sufficiency as therein determined for the Canadian Pacific of the sum of \$46,644,000 as overall net railway earnings to provide for fixed charges, dividends and surplus.

The 7 per cent Judgment was appealed by the provinces to the Governor in Council. The appeal was dismissed by Order in Council P.C. 1953-1457, dated September 17th, 1953, in which the Governor in Council stated in part as follows:

"The Petitioners have asked that the said Judgment and Order of the Board of Transport Commissioners be rescinded and that there be referred to the Board certain specific directions concerning the revenues, operating expenses and other income of the Canadian Pacific Railway and uniform percentage increases in freight rates.

"Counsel for the Petitioners and for the Railways concerned were heard by the Committee on May 1, 1953.

"The Committee having carefully considered the representations made by the Petitioners and having weighed the submissions made by counsel for the Petitioners and for the Railways, are unable to find that the Petitioners have discharged the onus upon them of establishing that the Board of Transport Commissioners erred or acted upon any wrong principle in making the said Judgment and Order dated March 30, 1953 (No. 80965).

"The Committee, therefore, are unable to advise that the said Judgment and Order dated March 30, 1953 (No. 80965) be rescinded, or that directions be issued to the Board of Transport Commissioners as requested by the Petitioners.

"The Committee, having reached this decision, observe with respect to an important question raised in this appeal, namely, whether for the purpose of freight rate determination there should be included in rail income of the 'yardstick company' certain revenues which are said to be essentially transportation income but which are carried in the company's books as non-rail income, that the Board in implementing the provisions of section 387 of the Railway Act, R.S.C. 1952, c.234, proposes to cause the establishment of a governing classification as between rail and non-rail assets and related income for all Canadian railways. The Committee further observe that the Board of Transport Commissioners is also at this time considering the question of equalization of freight rates."

BRIEF OUTLINE OF THE PRINCIPLES UNDERLYING THE RATE BASE-RATE OF RETURN METHOD IN DETERMINING A PERMISSIVE LEVEL OF RATES

In the course of dealing with the various aspects of the above mentioned method of rate making the details thereof are hereinafter more fully described, but stated in its simplest terms it can be said that the first step in such method is the determination of a railway's net investment in its rail enterprise. This is followed by an acceptance that the investment thus found should constitute a rate base. Next, a finding is made of what constitutes a fair return on such rate base to the railway concerned and a sum total is arrived at which would constitute the permissive earning level of the company by using the rate of return as a multiplier related to the rate base. Finally, existing rate levels are adjusted by such a percentage as would theoretically extend to the company concerned an opportunity to realize as a permissive earning the aforesaid sum total.

Having before us the historical background of the requirements method as earlier described and the above outline of the rate base-rate of return method, we will now proceed to deal with the question of whether or not under this application the Board should adopt the rate base-rate of return method as the sole determinant of a permissive level of rates.

To be fully successful in this application Canadian Pacific must convince the Board that it should:

- (a) determine the net investment in its rail enterprise which it is claimed amounted to \$1,146,664,833 as at December 31, 1951;
- (b) establish the net investment thus found as a rate base;
- (c) render a declaratory judgment stating that not less than 6½ per cent is a fair rate of return on the rate base.

Upon the Board making findings as set out in subparagraphs (a), (b) and (c), The Railway Association of Canada requests authority to make forthwith a further general increase of 9 per cent and from 10 cents to 20 cents per ton on coal and coke in tolls and rates of the member companies. The application goes on to state that it is estimated that the resultant net revenue would provide Canadian Pacific with a return of less than 5 per cent on its claimed net rail investment of \$1,146,664,833 as at December 31, 1951.

THE REQUEST THAT THE BOARD DETERMINE THE NET INVESTMENT
IN THE RAIL ENTERPRISE OF THE CANADIAN PACIFIC RAILWAY
COMPANY

Desirability from the Board's point of view
of Determining the Net Rail Investment
of Canadian Pacific

Canadian Pacific laid considerable emphasis on the above mentioned request. In the earlier application it expressed its willingness to pay the expenses of such audit as the Board might consider necessary for the purpose, and stated that such an audit was desirable irrespective of the basis on which financial need is to be established. Whether net investment is something which is determined, found, calculated or estimated, I believe the best the Board could be reasonably expected to do is to entrust the task to competent experts, and examine the result of their work with a critical eye. Whether under such circumstances we will have succeeded in arriving at a true valuation or only an estimate I think might be then regarded as something more or less of academic interest.

Counsel for the respondents do not contest the desirability of the Board finding the net investment as such in the rail enterprise of Canadian Pacific.

Mr. J. J. Frawley, Q.C., stated at page 2654 (Vol. 916) of the argument—

“... what we are fighting before this Board is the tendency to make the rate base and the rate of return the sole and only determinant of freight rates in future.”

and at page 2655 he further stated—

“... I am not here objecting to the Board asking its adviser Mr. Kent to go down to Montreal to find the net investment and I am not here to say that when that net investment is arrived at it ought to be put away and gather dust.”

Mr. C. D. Shepard, Q.C., at page 2517 (Vol. 916) of his argument, said—

“Although we seriously question many aspects of the net investment as put forward by the C.P.R., we do not seek to establish what it should be, the reason being that we do not consider that rate base and rate of return should be established, and we are content to leave to this Board with its expert advisers the task of determining a proper figure, if the Board should decide to do so for its own purposes, with due regard to donations, grants, land surplus and accrued depreciation, and with due regard to whether the assets reflected in such figures are used and useful.”

Dr. Bonbright, an experienced economist and rate expert called by the respondents, had this to say at page 960 (Vol. 913) of the record—

“Q. Will you now please comment on what you have called ‘Point I of the Application’—on the request for an opportunity to receive recognition of net railway investment as a factor in the determination of reasonable railroad rates?

A. My answer here can be brief—since the reasonableness of such a request could hardly be challenged except by someone who would utterly deny the relevance direct or indirect, of a net investment estimate as one factor to be considered in a general rate case. Indeed, merely for purposes of good accounting and without reference to a rate case, the net investment in any

grand division of a public service enterprise ought to be a matter of record, in my opinion. I should amend that statement slightly to make it read that an estimate of the net investment ought to be made or ought to be a matter of record because even accounting data purporting to state strictly objective facts contain large elements of estimates."

The Board's own attitude in this matter is abundantly clear. In the 21 per cent case the then Chief Commissioner, at page 24 of the pamphlet judgment, dated March 30, 1948, stated—

"In previous steam railway rate cases the Board has not based its decisions on the relationship of net railway operating income to the investment in railway property used in transportation services. Nor do the railways in their present application ask the Board to fix a rate of return on their investment in railway property used in transportation services.

"I think, however, that we might appropriately have some regard to the rate of return on the amount invested by the railways in railway property used in transportation services, as a test by which the reasonableness of the rates may be judged. One difficulty, however, is in ascertaining the value of the railway properties so used in transportation services.

"The determination of the value of investment in railway property used in transportation services in Canada has never been undertaken. And the question is much too extensive and complicated a problem to be taken into consideration at this time."

The Canadian Pacific first introduced evidence regarding the net investment in their rail enterprise in the case now known as the 21 per cent case by Exhibit 13, upon which Chief Commissioner Cross commented in his Judgment dated March 30th, 1948 at page 24. However, this phase of the Company's claim for recognition was not concentrated upon until the 8 per cent and subsequent cases. At page 15 of the pamphlet judgment of the said 8 per cent case, dated September 20, 1949, my predecessor, the late Mr. Justice Archibald, remarked "I am not suggesting that the company's books do not correctly reflect its investment position from a corporate standpoint However I do not believe that such considerations justify me in determining without further evidence and investigation (underlining is mine) that the investments have been prudently made, and that the revenues have been sufficiently accounted for."

In searching for other tests of the reasonableness of the net earnings which we were prepared to allow on the requirements basis this Board said in January 1952 at pages 20-21 of the pamphlet judgment of the 17 per cent case—

"In considering revenue cases the Royal Commission report has suggested that while not constituting the sole or guiding test fair return on property investment may be one of the tests of reasonableness of rates. In applying the following test I am not attempting to prejudge the amount which the Canadian Pacific Railway might regard as a fair return on invested capital. This latter question was not argued in the present case and may be determined in a separate and later hearing as mentioned elsewhere in this judgment. Based upon the evidence submitted in this and in previous cases, we have computed the amount which approximates, in our opinion, the net investment in railway property made by the C.P.R. as at December 31, 1951. After making due allowance for any items which may be contained therein that would be open to question upon a full and detailed examination of the consist of the items making up the total, the figure arrived at amounted to approximately \$1,100,000,000. An earning requirement of \$46,644,000 provides a return on the net investment, determined as previously explained, in the amount of approximately 4.25 per cent."

Thus the Board in 1948 felt that the net investment question was too complicated a problem to be then dealt with. In 1949 it was considered that though it might be advantageous if determined it required further investigation and study. As late as January 1952, prior to the hearing on this issue and accepting without detailed investigation the figure of approximately \$1,100,000,000 as net investment in rail, the Board used this figure as one test of reasonableness of the amount allowed as permissive earnings for a constructive year but which were arrived at on a requirements basis.

From any realistic point of view, the desirability of the Board having a more exact knowledge of what the net investment in the rail enterprise of the Canadian Pacific amounts to is, we think, hardly open to question. Moreover, in connection with the establishment of a Uniform System of Accounting (which by Statute we are required to install) the finding, for accounting purposes, of the net rail investment of the Canadian Pacific is complementary thereto. Hence, following the conclusion of the February 1953 hearing and supplementing our previous instructions pertaining to the Uniform System of Accounting in general, we had no hesitancy in requesting our Financial Adviser, Mr. Lionel P. Kent, a partner of the firm of Messrs, Riddell, Stead, Graham and Hutchison, Chartered Accountants, to examine into and report to the Board separately upon this specific subject of net rail investment. Accordingly, we indicated in our Judgment of March 6 last that we intended to conduct an independent investigation into this matter at the earliest practicable date.

Nine (9) Basic Accounting, Financial and Policy Factors deemed by the Board to be inherent in the overall determination of the Net Rail Investment of Canadian Pacific

I now turn to an examination of what the Board considers should be done in order to determine the net investment in rail transportation property of the Canadian Pacific. In the mind of the Board, the following nine basic accounting, financial and policy factors are inherent in such an overall determination for the purposes of this application:—

- (1) Accounting segregation, on "original cost" basis, as between rail and non-rail property assets and the classification of rail assets by primary accounts.
- (2) Broad impact on the literal accounting application of "original cost" to rail investment resulting from (a) the adoption of "betterment" accounting for certain important segments of rail investment more or less since the inception of the company and (b) the values assigned to rail investment at the time of acquiring other corporate properties based on the issuance of Canadian Pacific's securities and the giving of other valuable considerations.
- (3) From an examination of the major component items in the investment in rail property, the determination, within reasonable limits, as to whether or not such sums have been prudently invested and whether or not they represent outlays in respect of rail property used and useful in the enterprise.
- (4) Adequacy of the depreciation reserves against rail property assets, with due weight being given to the origin of such reserves and, from the viewpoint of equity, the resultant impact on Canadian rate structures of the past and present and, potentially, on those of the future.

- (5) Sufficiency and propriety of internal management and accounting policies and controls to insure the recording of physical retirements or the falling into disuse of rail properties.
- (6) Determination of the amounts of donations and grants included, for accounting purposes, in gross rail investment and contra accounts supported by the related reconciliations with Public Accounts and other data.
- (7) Advisability and necessity of making a physical inventory and valuation of rail properties.
- (8) For such non-accounting purposes as the Board may deem appropriate, the exclusion from or inclusion in net rail investment of donations and grants—either as a whole or in part.
- (9) Reasonableness of the amount of working capital allotment in net rail investment.

Basic factors (1) to (6), primarily of an Accounting and Financial nature, covered in the printed report of our Financial Adviser's firm.

We now have to hand the report of our Financial Adviser's firm, Messrs. Riddell, Stead, Graham and Hutchison, dated October 26, 1953, on the net rail investment as of December 31, 1951, (and further as of December 31, 1952) which report is available to all interested parties as a separate printed pamphlet in exhaustive elaboration of this phase of our judgment. The body of the report is divided into twelve main sections setting out the broadly applied principles and procedures together with the findings supported by some forty-nine explanatory exhibits.

The aforementioned basic factors (1) to (6) are covered in the report of our Financial Adviser's firm and whilst not wholly conclusive on all points at issue the Board is disposed (subject to two specific qualifications pertaining to the overall disposition of Donations and Grants and the allocation of Communications Property by the Board) to accept for present purposes, the accounting and financial disposition of the matters therein made as being the best practical solution of the problem without the expenditure of additional large and, indeed, unpredictable sums of money and the lapse of an unpredictably long period of time that a physical inventory and valuation of the rail properties of the Canadian Pacific would entail. This latter factor is dealt with in the next section herein under the caption "Advisability and necessity of making a Physical Inventory and Valuation of Rail Properties".

It is relevant to record at this point that our Financial Adviser's firm at Page 4 of their report state that:

"The final figure of \$1,167,640,506 as reflected by our Exhibit A-1, is in our opinion, subject to the disposition of the item of donations and grants, which is a matter yet to be determined by the Board, the minimum amount according to the books and records of the various Companies concerned, that should be recognized as the net investment of the Canadian Pacific Railway Company in its rail transportation facilities as at December 31, 1951. We designate the aforementioned figure of \$1,167,640,506 as the minimum amount because of sums incorporated therein relating to the reserves for depreciation which are expounded upon under our comments dealing with those reserves."

and at Page 23:

"It will be noted that no adjustment has been made by us in respect of property operated by the communications department of the Company, at present included in the non-rail assets of the Company. In our report on rail and non-rail operations we recommended no change in the existing non-rail status. We have, nevertheless, made a review of the property investment of this department and of the associated depreciation reserve, in order that we may form an opinion as to the propriety of the items included therein should the Board rule that the communications department of the Company be considered as part of the rail transportation system."

* * * * *

We now proceed, under appropriate sub-headings, to set out the considerations and findings relating to the remaining three of the aforementioned basic factors (7) to (9), together with the allocation of communications property included in basic factor (1), which special policy matters by reason of their nature were not finalized in the report of our Financial Adviser's firm and, accordingly, were considered and adjudicated upon separately by the Board.

Advisability and necessity of making a physical inventory and valuation of rail properties—basic factor (7).

Testimony was offered to the Board on the advisability and necessity of making a physical inventory of the rail properties of the Canadian Pacific, and of conducting engineering studies, reports and appraisals.

On this subject we have the opinion of Mr. Charles W. Smith, Chief of the Bureau of Accounts, Finance and Rates of the Federal Power Commission of the United States, who gave evidence on behalf of the railways.

At page 71 (Vol. 911) I asked him this question:

"Q. May I interrupt you just there to ask you this. Although as you say you accept the figures you have had an opportunity to look fairly thoroughly into the manner and methods used by the Canadian Pacific in keeping their accounts; what depreciation they have and how they arrive at it and so on. You also said that all commissions should have, I suppose, a staff to look into these matters. From your general sizing up of the situation, supposing you were working for this commission instead of the Federal Power Commission and I asked you to make a report to me on the Canadian Pacific and to go into it sufficiently thoroughly for us to start off with a base which would be reasonably sound. How big a job do you think it would be; what staff would you require and how long would you take?"

"A. My lord, it would depend entirely upon the detail in which you make the investigation. I should like to go back just for a moment to state that during the ten days I was here in November the C.P.R. made available to me an analysis of many, many accounts, so the statements I have made about my acceptance of the figures are based on more than a couple of days' inspection. The Canadian Pacific books appear to be in good shape. If you stick to the accounting analysis, which is the method employed by the Federal Power Commission and by such commissions which have adopted the National Association of Railroad and Utility Commissions Uniform System of Accounts, you could do a much quicker job than if you are going to make an engineering investigation.

"Our system of accounts provides that your determination of cost must be by an accounting analysis, supplemented by estimates where the books are not available. I should think that for the purpose of a proceeding of this kind that it would take about ten men a period of from six months to a year to make the kind of investigation that you would want. It should preferably be an accounting investigation, because if you get off into an engineering investigation you may find that ten years from now you have not settled the controversies that will arise."

"Q. I suppose it would simplify matters if the original cost less depreciation, plus working capital formula were used. I suppose it would simplify matters, would it?"

"A. I think the net investment rate base would not only simplify matters, but would give investor confidence in this railroad which it does not have today. The investor could then measure the area in which this railroad could operate and achieve a fair return. That, in my opinion, is extremely important."

and on Page 73, in answer to a question from Mr. F. D. Smith, Q.C., Counsel for the Maritimes Transportation Commission, enquiring about the conduct of the investigation in a case in the United States—

"Q. You called in engineers to assist you in arriving at the rate base in any event?"

"A. No, our job—our determination of the rate base was by the ordinary accounting process and we used engineers where the books and records were not available. Sometimes we use engineers for the purpose of examining the use of the property or determining the way the property is used. We use engineers for the determination of the service life of property. We use petroleum engineers and geologists to determine natural gas reserves. We use rate engineers in analyzing wholesale rate contracts, but the investigation of cost today is primarily an accounting matter."

Further, on Page 74, in answer to a question of mine, Mr. C. W. Smith said this:

"A. My lord, I believe any job you do in that connection you ought to do well for any purpose. Modern thinking in accounting circles is that a really detailed, confined investigation is not justified. More and more we are making broad types of investigations which can be done quickly, where you can get overwhelmingly the volume and the dollars of adjustments that are proper and you do not spend a great deal of time checking small detailed items. The practice today is to concentrate on the broader phases of the investigation; that is our practice with respect to the largest natural gas companies in the United States. We no longer make detailed voucher audits."

Mr. C. W. Smith also gave his opinion along similar lines at other stages of his evidence but I will not encumber this judgment by reciting in full all such expressions of his opinion.

As the Board interprets the report of Messrs. Riddell, Stead, Graham and Hutchinson on the net rail investment of the Canadian Pacific, it is apparent, we think, that in the adoption of their own completely independent accounting and financial approach based upon their own long established firm policies they proceeded along such general lines indicated by Mr. C. W. Smith as

would reasonably meet the requirements of the Federal Power Commission in respect of United States electric power and natural gas utilities coming under its jurisdiction. Furthermore, we have found that Mr. C. W. Smith's estimate that it would take about ten accounting experts anywhere from six months to a year to complete the type of examination in current use by the Federal Power Commission has been reasonably borne out by our actual experience in the present case. I believe it is the first time that an active officer of an American Public Service Commission has appeared before us and though Mr. Smith testified in a private capacity the Board appreciates receiving the benefit of the valuable experience gained by the witness through his long association with the Federal Power Commission and I wish to acknowledge the courtesy of the latter body in making it possible for Mr. Smith to appear before us. For these and many other compelling reasons we cannot conclude that a more detailed accounting examination of the property records of the Canadian Pacific is warranted at this time or would be any more helpful to us in the discharge of the question that is now before us. It is also well to bear in mind at this point that the Federal Power Commission do not now place any primary emphasis on physical inventories and valuations where reasonably adequate accounting records and other authoritative data are available to its examiners.

We now turn to a consideration of the Physical Inventory and Valuation practices of the Interstate Commerce Commission having their genesis in the 1913 Valuation Act enacted by Congress in respect of United States railroads.

From our examination of a number of reports issued by the Interstate Commerce Commission and Mr. Joseph B. Eastman, the former Federal Coordinator of Transportation, on the results and costs of valuation to the government and the railroads, two facts of pertinent interest to the Board are evident, firstly, that the overall railroad capitalization and book figure of net rail investment did not grossly exceed the primary valuations found by the Interstate Commerce Commission and, secondly, that the valuations, whilst providing many constructive uses both to the railroads and the Interstate Commerce Commission, did cost all those concerned prodigiously large sums of money. However, beyond these very important inferential probabilities for Canada, in respect of valuation results and costs, we do not find that the United States "pre-valuation" problems have any comparable application to the present situation in Canada as pertains to the net rail investment of the Canadian Pacific.

Further, from our examination of reports issued by the Interstate Commerce Commission and other governmental agencies on the variety of conditions and economic philosophies underlying and leading up to the enactment of the 1913 Valuation Act, it is evident that at the time the Act came into being the Interstate Commerce Commission was faced, *inter alia*, with two major and vexatious problems (a) that of hundreds of railroads having a wide variety of corporate histories, financing and re-financing policies, re-organizations, mergers, and the resultant conglomerate accounting policies in the development years and (b) that of the hybrid but so-called "fair value" concept in rate-making as set out, for instance, in the widely quoted case of *Smyth v. Ames*, (169 U.S. 466) in 1898 and which concept plagued the courts and regulatory authorities thereafter for decades. Neither of these two problems are inherent in the present application before the Board because (a) the Canadian Pacific from its inception has been developed, for all practical consideration, as a homogeneous unit and, in the main, without the type of financing, re-organizations, mergers, and resulting conglomeration of accounting policies that characterized the United States railroads in their development years and

(b) the net rail investment claimed by the Canadian Pacific is predicated upon recorded or estimated cost without the intrusion of the so-called "fair value" theories in valuation.

After giving due weight to all of the foregoing relevant factors, the Board, unless otherwise directed under statutory authority, is not disposed to initiate any procedures or rulings at this time that would involve a physical inventory and valuation of the Canadian Pacific's rail properties.

It possibly may be of passing interest to note here that one of the most recent reviews of the history of Federal Valuation is contained in the booklet entitled "The Federal Valuation of the Railroads in the United States" by B. H. Moore, Valuation Assistant and Accountant, Finance, Accounting, Taxation and Valuation Department, Association of American Railroads, as a reprint from Bulletin 503 of the American Railway Engineering Association, September-October 1952. The booklet is, of course, written primarily from the viewpoint of the railroads as may be judged from the differing approach vis a vis the Interstate Commerce Commission on the so-called "original cost" and "reproduction cost" concepts in the primary valuations and later in the series of wartime and post-war general rate level decisions. Nevertheless, the treatise may be of some interest as a ready reference in that numerous governmental and other recognized authorities are quoted in considerable detail therein.

**Exclusion from or inclusion in net rail investment
of Donations and Grants—either as a whole or in part—
basic factor (8)**

The term "Donations and Grants" is an adaptation from the Congressional Valuation Act of 1913 which, inter alia, required these factors to be found and reported in detail, and from the Uniform System of Accounts for Railroad Companies, prescribed by the Interstate Commerce Commission, so far as it relates to grants obtained from all governmental agencies (together with donations from individuals and others) in connection with the construction or acquisition of rail transportation property where the United States carriers acquire exclusive title and exclusive right of use. Broadly speaking, the term as used in this judgment applies overall to federal, provincial, municipal and industrial construction aids to owned and leased properties in Canada by way of government land grants used for right of way and other rail purposes; reasonable assigned acquisition values as of contract dates covering government land grants (a) subsequently resold to the government and (b) subsequently sold or held for sale to the public; rail line ownership transfers from government to the Canadian Pacific; government cash subsidies and bonuses; industrial trackage and the like.

Canadian Pacific's rail investment as at December 31st, 1951, includes the amount of \$78,601,475 in respect of donations and grants, apart from any assignment of values from land grant proceeds which matter we deal with in some detail later under this sub-heading.

The items making up the amount of \$78,601,475 are shown in Exhibits 52-150 and 52-151. They are as follows:—

- (a) \$25,000,000 cash subsidy granted by the Dominion Government under 44 Vict. c. 1 passed in 1881, and \$35,117,152 being the cost to the Dominion Government of the sections of railway built by the government and conveyed to the Canadian Pacific under that Act.

- (b) Items totalling \$7,285,562, subsidies granted under the Railway Subsidies Acts which provided for the free carriage of certain Dominion Government traffic up to an amount equal to 3 per cent per annum of the amounts of the subsidies.
- (c) Items totalling \$3,404,720 in respect of the so-called Crow's Nest Pass subsidy.
- (d) Various other grants by the Dominion Government totalling \$3,313,722, and
- (e) Various grants from provincial, municipal, and industrial sources totalling \$4,480,319.

It should be noted here that although the values of certain lands granted by the Dominion and Provincial Governments for right of way and other rail purposes have not been included in Canadian Pacific's rail investment as submitted by the Company, most of the lands donated for financing purposes were sold and the proceeds thereof were credited, in the first instance, to Land Surplus Account. No doubt a considerable, yet specifically unascertainable, portion of such proceeds was used to pay for rail property purchased by the Company and the cost thereof was included in rail investment.

The major part of the donated lands and construction subsidies was provided by the Dominion Government under 44 Vict. c. 1 above mentioned, which incorporated the Canadian Pacific Railway Company. That Act consists of three parts:

- (a) the Act itself.
- (b) the Contract, and
- (c) the Schedule to the Contract.

The Contract was entered into by and between the Government of Canada and a syndicate of persons, and was ratified by the Act. Under the Contract the Government agreed to grant to the company "a subsidy in money of \$25,000,000 and in land of 25,000,000 acres" (Sec. 9), in addition to certain lines of railway, land for right of way and stations, exemption from taxation and other assistance.

It is to be noted that although 25,000,000 acres of land was described in the Contract as a subsidy it does not appear as a donation and grant in Exhibits 52-150 and 52-151 filed by Canadian Pacific, because in the books of the latter it was not carried as a donation or grant, and we will leave for later consideration the aforesaid land subsidy.

The Schedule to the Contract amounts to a statute incorporating Canadian Pacific and substituting for the persons signing the Contract the corporation to be formed. The Schedule contains the following Sections 17 and 20:

"17. 'The Consolidated Railway Act, 1879', in so far as the provisions of the same are applicable to the undertaking authorized by this charter, and in so far as they are not inconsistent with or contrary to the provisions hereof, and save and except as hereinafter provided, is hereby incorporated herewith."

"20. The limit to the reduction of tolls by the Parliament of Canada provided for by the eleventh sub-section of the 17th section of 'The Consolidated Railway Act, 1879', respecting TOLLS, is hereby extended, so that such reduction may be to such an extent that such tolls when reduced shall not produce less than ten per cent per annum profit on the capital actually expended in the construction of the railway, instead of not less than fifteen

per cent per annum profit, as provided by the said subsection; and so also that such reduction shall not be made unless the net income of the Company, ascertained as described in said sub-section, shall have exceeded ten per cent per annum instead of fifteen per cent per annum as provided by the said sub-section. And the exercise by the Governor in Council of the power of reducing the tolls of the Company as provided by the tenth sub-section of said section seventeen is hereby limited to the same extent with relation to the profit of the Company, and to its net revenue, as that to which the power of Parliament to reduce tolls is limited by said sub-section eleven as hereby amended."

Subsections 10 and 11 of section 17 of The Consolidated Railway Act 1879 (42 Vict. c. 9) were as follows:

"10. Every by-law fixing and regulating tolls shall be subject to revision by the Governor in Council, from time to time, after approval thereof; and after an Order in Council, reducing the tolls fixed and regulated by any by-law, has been twice published in the Canada Gazette, the tolls mentioned in such Order in Council shall be substituted for those mentioned in the by-law, so long as the Order in Council remains unrevoked:"

"11. The Parliament of Canada may, from time to time, reduce the tolls upon the railway, but not without consent of the company, or so as to produce less than 15 per cent per annum profit on the capital actually expended in its construction, nor unless, on an examination made by the Minister of Public Works of the amount received and expended by the company, the net income from all sources, for the year then last passed, is found to have exceeded fifteen per cent upon the capital so actually expended:"

In 1881 Parliament also passed Chapter 24 of the statutes of that year, the preamble and section 1 of which were as follows:

"WHEREAS doubts have arisen as to the true intent and meaning of the word "capital" in the eleventh subsection of the seventeenth section of "The Consolidated Railway Act, 1879" hereinafter called "The Railway Act," and it is expedient to remove such doubts: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

(1) The said word "capital" as used in the said sub-section meant and means the paid up stock and share capital of the company with interest added for periods during which no dividend is paid, to the exclusion of all subsidies and bonuses, and, as regards the Canadian Pacific Railway, of any debt of the company contracted on the pledge thereof, or of any part thereof: And this interpretation of the said word shall apply to all railway companies affected by the said subsection or by any amendment of the said sub-section in which the said word is used, which is or shall be incorporated with the special act or charter of any railway company.

(2) The word "or" in the third line of the said eleventh sub-section, as printed in the Statute book, is declared to have been inserted by a clerical error and shall be struck out, and shall be held to have been inserted contrary to the intention of Parliament."

In 1886 The Consolidated Railway Act 1879 was repealed and Chapter 109 of the Revised Statutes, 1886, was passed in its place. This Act contained section 16 (11) as follows:

"11. The Parliament of Canada may, from time to time, reduce the tolls upon the railway, but no such reduction shall, without the consent of the company, be made so as to make the said tolls produce less than fifteen

per cent per annum profit on the capital actually expended in its construction, and unless, on an examination made by the Minister of the amount received and expended by the company, the net income from all sources, for the year then last past is found to have exceeded fifteen per cent upon the capital so actually expended; and the expression "capital," as used in this subsection means the paid-up stock and paid-up share capital of the company, with interest added, for periods during which no dividend is paid, to the exclusion of all subsidies and bonuses, and, as regards the Canadian Pacific Railway, also to the exclusion of any debt of the company contracted on the pledge thereof, or of any part thereof:"

In 1888, Chapter 109 of the Revised Statutes 1886, was repealed and 51 Vict. Chapter 29 was substituted for it. The provision for reducing tolls when the net income exceeded 15 per cent was not included in the substituted Act but the latter Act contained a provision making tolls subject to the approval of the Governor in Council.

51 Vict. Chapter 29 of 1888 was repealed in 1903 by 3 Edw. 7, c. 58. This Act consolidated and revised the 1888 Act and its amendments and created the Board of Railway Commissioners for Canada which later became the Board of Transport Commissioners for Canada.

In 1919 the Railway Act was consolidated and amended by 9-10 Geo. V, c. 68. This Act contained section 325 (5) as follows:

"(5) Notwithstanding the provisions of section three the powers given to the Board under this Act to fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require, shall not be limited or in any manner affected by the provisions of any Act of the Parliament of Canada, whether general in application or special and relating only to any specific railway or railways, and the Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities, or of undue or unreasonable preference, on the ground that such discrimination or preference is justified or required by any agreement made or entered into by the Company: Provided that this subsection shall remain in force only during the period of three years from and after the date of the passing of this Act."

In 1925 the above subsection was re-enacted and the proviso that the subsection would remain in force only during three years was deleted and it now appears as section 328 (5) of the Railway Act, chapter 234 R.S.C. 1952, as follows:

"(5) Notwithstanding the provisions of section 3 the powers given to the Board under this Act to fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require, are not limited or in any manner affected by the provisions of any Act of the Parliament of Canada, or by any agreement made or entered into pursuant thereto, whether general in application or special and relating only to any specific railway or railways, and the Board shall not excuse any charge of unjust discrimination, whether practised against shippers, consignees, or localities, or of undue or unreasonable preference, on the ground that such discrimination or preference is justified or required by any agreement made or entered into by the company."

Reverting to 1898, in that year Parliament passed Chapter 60, An Act Respecting the Canadian Pacific Railway Company, containing section 6 as follows:

"6. Any Act hereafter passed for the purpose of controlling railway companies incorporated by or subject to Parliament as to the issuing of stock or bonds, and as to rates or tolls and the regulation thereof, and as to running powers over or other rights in connection with the railway of any company by any other company, and the exercise of powers conferred upon railway companies, shall apply to the Company from the time such Act goes into effect; but this section shall not be construed to imply that such Act would not apply to the Company without the enactment of this section."

The foregoing indicates in a general way the statute creating Canadian Pacific and the statutory provisions relating to the regulation of its tolls.

Counsel for Canadian Pacific contended that there should be no deductions of donations and grants from its investment rate base. Counsel for the provinces opposed this contention.

The principal arguments of Counsel for Canadian Pacific may be summarized as follows:

(1) The provisions in the present Railway Act for regulation of tolls have superseded provisions for control and regulation of tolls in previous Acts, including those of 1881, 1886 and 1888 above mentioned.

(2) The Board has no power to confiscate. Canadian Pacific is by law entitled to the opportunity to earn a fair return on its property, regardless of its source, devoted to the public service. The equivalent of confiscation takes place when no return is allowed upon the value of such property.

(3) Canadian Pacific has absolute title to the property represented in its Rail Investment Account, including the property represented therein by donations and grants, and gave valuable consideration therefor. The people of Canada have had good value for the assistance they gave the Canadian Pacific.

(4) If there were any condition attached to the subsidies in cash and land granted to Canadian Pacific under the 1881 Act it was a condition for the construction of the railway and its continuous operation for ten years following completion, and that condition has been fulfilled.

(5) In the case of subsidies granted under Railway Subsidies Acts, free carriage of Government traffic up to an amount equal to 3 per cent annually on the amounts of the grants is a continuing obligation.

(6) Rate concessions under the Crow's Nest Pass Act and Agreement have been much greater in amount than the subsidies.

Counsel for Canadian Pacific cited numerous decisions of courts and commissions, many of which were in the United States, in support of their arguments.

Counsel for the provinces argued in the main as follows:

(1) Section 328 of the Railway Act gives the Board complete, absolute, unrestricted and unfettered powers to fix just and reasonable rates, except in respect of statutory rates.

(2) Parliament created Canadian Pacific as one company, and its so-called rail enterprise cannot in law or in equity be divorced and considered apart from the company as a whole. Canadian Pacific represents an expression

of national policy and analogies to be found in ordinary company law or to be drawn from United States railroads are inapplicable. The assistance given by the Government to Canadian Pacific under the 1881 Act was on the basis of Canadian Pacific discharging the continuing obligation to operate the entire railway in perpetuity and the purpose of the assistance was to secure the completion of the railway and its perpetual maintenance and operation.

(3) The Canadian Pacific's 1881 Act is still in effect. It was not the intention of Parliament in 1881 or at any subsequent time that donations and grants should be included in any net rail investment figure that is given any cognizance in relation to rates or rate levels and the assistance given by the Government should be taken into consideration when dealing with rates.

As to the Board's powers to regulate tolls I am of the opinion that its powers under the Railway Act are not limited or affected by the toll provisions of the Canadian Pacific's 1881 Act, the Consolidated Railway Act 1879 or the Acts of 1886 and 1888 above mentioned.

The Railway Act does not indicate the considerations which the Board should take into account or any rule by which the Board is to be guided in fixing just and reasonable rates. Section 328(5), which was passed in 1919 and in 1925 as section 325(5), gives the Board what was described by the present Chief Justice of Canada in *Alberta v. C.P.R. and C.N.R.*, 38 C.R.C. 27, at p. 37, as "powers of the most sweeping character" in that respect. The Judgment of the Supreme Court of Canada in *Re Crow's Nest Pass Rates*, 30 C.R.C. 32, said at page 40:

... "The main question now before us is whether Parliament by its subsequent general railway legislation, including the creation of the Board of Railway Commissioners and the vesting in it of very broad powers of supervision and control over tolls and rates, as was undoubtedly competent to it—and to it alone—has relieved the C.P.R. from the operation of s.ss. (d) and (e) of the Crow's Nest Pass Agreement, abrogating the maxima they prescribed so far as required to give to its delegate, the Board, unrestricted control of rates in respect to the traffic covered by them." (underlining is mine).

The agreement was held to be binding on the Board, but the words underlined used in stating the alternative are similar to those used by Counsel for the provinces in the present case in respect of the Board's general powers of rate regulation.

Parliament, subject to few exceptions, has given the Board very extensive powers to control and fix railway rates and has not bound it by rules and restrictions. This makes it all the more necessary that we on our part exercise great care in discharging our duty and exercising our discretion so as to ensure that the railways and the public are both treated fairly and that rates are just and reasonable to each.

It is also my opinion that in fixing rates that are just and reasonable the Board may take into consideration as facts the enactment of the Canadian Pacific's 1881 Act, the contract embodied therein and subsidies and other assistance granted to Canadian Pacific under that Act and other Acts. The historical background of Canadian Pacific and assistance given to it by the Government of Canada was fully described in the detailed and objective review submitted by Professor C. W. Fowke, a witness called by the respondents.

Furthermore, we do not lack precedent in looking at statutes and statutory agreements, as facts nor as to the Board's powers of discretion when fixing rates to determine the weight that it should assign to assistance given by Govern-

ments to aid construction and operation of railways. In *C.N.R. v. Quebec Harbour Commissioners*, 36 C.R.C. 81, the Board refused the C.N.R. leave to appeal from that part of General Order No. 448 dated August 26, 1927, which reduced the rates on export grain from Armstrong and Port Arthur to Quebec City. Leave to appeal had been sought on the ground that the Board had erred in law in taking into consideration in fixing the rate, (a) the agreement of July 29, 1903, made between the Government of Canada and Grand Trunk Railway Company in connection with the construction of the National Transcontinental Railway (3 Edw. VII, c. 71) and (b) the Crow's Nest rate from Calgary to Fort William. Section 325(5) of the Railway Act, now Section 328(5) was cited in support of the application. At page 84 the Board said:

"The whole issue is contained in the inquiry whether or not the Board was entitled to take into consideration in fixing the rate in question, the existence of the statute of 1903 and the agreement of the 29th of July of that year scheduled therein. The reasons which led the Board to the conclusion announced in the judgment are fully set out therein, and I think nothing would be gained by repeating the same in extenso. I am in accord with the view expressed by the Deputy Chief Commissioner in his judgment, 33 C.R.C. at pp. 224-5, in which he states 'I am of opinion that the Board in determining the just and reasonable rate must take into account the circumstances which accompanied the creation of the National Transcontinental and the Grand Trunk Pacific Railways and the compensation in money already received by these railways for the avowed purpose, if possible, of routing grain and other Canadian products through Canadian channels.' In the judgments of the learned Deputy Chief Commissioner, and other members of the Board, the rate fixed by the judgment was found to be reasonable and just having regard to all the circumstances. This is a question of fact, upon which the opinion of the Board cannot be challenged before the Supreme Court of Canada, and while its determination takes into consideration various statutes and a statutory agreement, it cannot, in my view, be resolved into the question of jurisdiction, although it recognizes the existence of certain legislation. It was contended by Mr. Thompson that the Board, by subsection 5 of section 325 of the Railway Act, is precluded from using the Crow's Nest rate for any basis of comparison, but as pointed out to him by the Deputy Chief Commissioner on the argument, there is nothing contained therein which prevents the Board from taking into consideration both the Crow's Nest agreement and the agreement of 1903 as facts when determining what is a just and reasonable rate under the circumstances of this case."

Further at page 85 the Board said:

"Counsel for the railway company affirm that in giving consideration to the application of the Quebec Harbour Commissioners, the Board should exclude all factors concerning the inception and construction of the railway, and the agreement concerning the user thereof, all of which, they say, has no bearing upon the question of the reasonableness of rates. In connection with the construction of this road there are certain well known facts, not disputed, involving the payment of many millions of dollars on the part of the public to secure the service which it now asks for, which service constitutes the real reason for building the railway. This latter fact, as well as others, would seem to me to be an element in the reasonableness of a rate set up. They have their origin in the legislation of 1903 and the agreements made thereunder. I cannot agree that the operation of section 325 in any of its subsections deprives the Board of the power to consider the payment of 330 millions by the public for the purpose of the construction of this railway as one of the factors in considering the question of the

reasonableness of the rate. It is enacted that the powers of the Board to fix just and reasonable rates are not to be limited or in any manner affected by the provisions of any act of parliament—subject to the proviso as to the rates on grain and flour—but this in my view does not prevent the Board from taking into consideration that the inhabitants of the city of Quebec with others, have paid a very large amount of money for the construction of the road in question for the very purpose which they ask that it shall be put. This is not a question of law or of jurisdiction, but of fact, and they have come before the Board presenting this fact and saying that it should be taken into consideration in providing the rate. Mr. Thompson pressed upon the Board that in construing section 325 subsection 5, the Board in fixing just and reasonable rates must disregard all statutes and all agreements previously entered into with the above exception. As the Board's powers are not to be limited or in any way affected by the provisions of any act or agreement pursuant thereto, he agreed with the Deputy Chief Commissioner upon the argument, that the jurisdiction of the Board to fix just and reasonable rates is not restricted, but is always unlimited except on the Crow's Nest rates on grain and flour. And that being so, the payment of the large amount of money is an indisputable fact which in my view is not to be ruled out of consideration in determining what rate it is just and reasonable that the public should pay for the service involved, and it has, I think, a right to consider what has been paid in advance, with a view of procuring rates which, because of that prepayment, would still be just and reasonable for the carriers, and yet would not be high enough to act as a barrier to prevent the freest possible interchange of commodities between various sections of our country, and the routing of Canadian grain and other products through Canadian channels."

The C.N.R. then applied to the Supreme Court of Canada for leave to appeal—*C.N.R. v. Quebec Harbour Commissioners*, 36 C.R.C. 87. Lamont J. in refusing leave to appeal, said at page 90:

"The railways desire to appeal from the Order fixing the rates from Armstrong to Quebec City. Their contention is that the Board misdirected itself by holding that it had jurisdiction to look at and use, as a basis for fixing the rates, the Crow's Nest agreement from Calgary to Fort William, and the agreement of July 29th, 1903; and s. 325 ss. 5, of the Railway Act was cited in support thereof. That section declares that the powers of the Board under the Act to fix and determine just and reasonable rates shall not be limited or in any manner affected by the provisions of any Act of the Parliament of Canada, or by any agreement made or entered into pursuant thereto, save and except as to rates on grain and flour from points west of Fort William to Fort William and Port Arthur. The wording of this subsection, on any fair reading of it, is not capable, in my opinion of being construed as a restriction upon the powers of the Board to fix the rates set out in the Order. On the contrary it seems to me from the language used that Parliament contemplated that the Board would look at and consider the statutes and agreements relating to rates which had been in force or agreed upon, and desired to make it clear that, with the exception of the Crow's Nest agreement, the Board was not to be bound by any such statute or agreement. The Board was, therefore, entitled to take into consideration the agreements to which objection was taken. Taking them into consideration, however, does not mean, as I indicated above, that the Board is under any obligation to adopt the rates fixed or agreed to therein. What weight they shall have is, in my opinion, left to the discretion of the Board subject to this, that after it has given full consideration to these agreements as well as to the other matter to which reference was made so

often on the argument, namely, the expenditure of three hundred and thirty million dollars by the Parliament of Canada in constructing or aiding the lines now forming the Canadian National Railways, and the desire of the government, as expressed in the Order-in-Council, to encourage the movement of traffic through Canadian ports, the obligation still rests upon the Board of fixing rates which are fair and reasonable 'from the standpoint not only of the producer but also from the point of view of the Railways.'" (underlining is mine)

That there exists a very real connection between the fixing of just and reasonable rates and the determination of the amount of the net investment of Canadian Pacific in its rail enterprise is, I think, hardly open to question. In previous cases Canadian Pacific has been to the forefront as the yardstick company and the Board has in a measure considered the permissive return allowed Canadian Pacific on its net rail investment, as calculated in those cases, as one of the tests of the reasonableness of the amount of the "requirements" allowed by the Board, although it was handicapped by the fact that such net investment had never been determined. Whether or not donations and grants should be included in or excluded from the consist of Canadian Pacific's rail investment has therefore a bearing on rate determination. Indeed, if a return on Canadian Pacific's net rail investment should become the sole criterion for fixing just and reasonable rates as requested in the application, the inclusion or exclusion of donations and grants, wholly or partly, would take an added importance.

In the light of the foregoing and the discretion we have as to the weight to be given by us to donations and grants when fixing rates, it is my opinion that we may in our discretion include or exclude some or all donations and grants when establishing Canadian Pacific's net rail investment for such rate making considerations as the Board may deem appropriate.

Having come to these conclusions we should, I think, examine any and all precedents which may assist us in dealing with donations and grants, not in an arbitrary way but reasonably and in conformity with national policy to the extent that we are able to do so.

We have examined into the treatment accorded donations and grants in the United States by the Interstate Commerce Commission and by the Federal Power Commission and we find apparent variations between these two Commissions in their rate-making treatment of donations and grants due, doubtless, to variances in the statutory guides given them and the different types of public service agencies with which they deal.

The present practice in so far as the Interstate Commerce Commission is concerned is that (while for accounting purposes the Commission does not include donations and grants in the *net* rail investment) in the ascertainment of property values for railway rate-making purposes it considers the following, without deduction, so long as the railway company has exclusive title and right of use and so long as such donations and grants or the proceeds thereof are used and useful in its rail enterprise:

- (a) Grants of right of way and other rail transportation lands at present day values.
- (b) The equivalent of such proceeds from land grant sales as are invested in rail transportation properties, and
- (c) Various other assistance given by government and industry.

In other words, it can be said that subject to the aforementioned conditions, the Interstate Commerce Commission makes no distinction in its determination of "value", in so far as rate regulation is concerned, between monies or the equivalent thereof which have been furnished by shareholders and other corporate investors and those donated by governments and users of the railway in general.

It is also relevant to these rate-making considerations by the Interstate Commerce Commission to note that, subject to certain specified claim releases, under the Transportation Act of 1940, as amended in 1945, the Congress of the United States finally absolved the railroads of any remaining statutory obligations originally imposed upon them for reduced rates on government traffic in consideration of early land grants.

The rule followed by the Federal Power Commission, while similar for accounting purposes to that of the Interstate Commerce Commission, is to exclude donations and grants from the net investment of the utility concerned in arriving at a base for rate-making purposes. In point of fact, the Power Commission in essence is committed by statute to "investment" as a rate base.

Turning to the practice followed in Canada, only a very few of the provincial utility commissions whereby electricity, gas and water rates, etc., are regulated, have ever passed on the subject. However, Mr. C. W. Brazier, in cross-examination of Dr. H. L. Purdy, a witness called by Canadian Pacific, brought to our attention a judgment of the British Columbia Public Utilities Commission in the British Columbia Electric valuation case of 1942-43, wherein the Commission stated on page 19 of its report:—

"Donations, customers' deposits, monies on hand for payment of taxes, etc., require special treatment. These funds are used by the utility in construction or replacement of plant or as working capital. They do not represent a decrease in property value or in the amount of working capital as defined in this judgment. But as the shareholders do not provide these funds they are not entitled to a return on them. One method of treatment is to deduct such funds from the rate base but in this case this is impractical. These funds, with the exception of customers' deposits are not related to the units of service, and cannot be segregated except on some purely arbitrary basis.

"The method used is to treat these funds as non-interest bearing monies and no return is allowed on them in the calculation of the rate of return. The ultimate result to the consumers is the same."

Dr. Purdy suggested that in dealing with the same matter in 1951 the Commission changed its viewpoint or that there was a strong implication that they had done so, but I am not convinced that such was the case.

As we have already mentioned, the major portion of donations and grants with which we are concerned stem from the Canadian Pacific Act of 1881 and the subsidies therein accorded to Canadian Pacific by the then Dominion Government. How such subsidies were to be treated at that time in so far as rate control was concerned was subject to doubt and in order to remove this doubt Parliament passed the statute which we have recited previously herein. The above mentioned statute, while of ancient vintage, is the only guide in the field of Canadian railway rate regulation which can be of any assistance to the Board in gauging the intentions of Parliament as to the treatment to be accorded the subsidies granted Canadian Pacific in 1881 in connection with the net rail investment of that company.

Mr. F. C. S. Evans, Q.C., dealt at considerable length with the question as to whether donations and grants should be included or excluded from the net rail investment for the purposes of this application. Our Financial Adviser's

firm rightly considered that, apart from the carrying out of certain accounting investigations and reconciliations, the status of donations and grants was a matter for determination by the Board. When we came to conclude the matter we considered that an important issue in connection with it had not been argued and we decided to re-open the case. In accordance with directions which appear in the transcript of proceedings of August 24, 1953, argument commenced on October 19 and concluded on October 20, 1953.

During the course of the supplementary hearing on donations and grants I had occasion to refer to some pertinent observations made by Dr. H. F. Angus in the 1951 Report of the Royal Commission on Transportation. The following are some excerpts therefrom to be found at pages 290 and 291 of the said report:

"Now that the Canadian Pacific Railway has, of necessity, to be used as a yardstick for the general level of freight rates some important and contentious issues must be settled. These issues include:

(a) The interpretation to be placed on the transactions between the Canadian Pacific Railway and the Government of Canada, in so far as they affect the extent of the investment on which a return should be earned;

"If crucial decisions have to be made on these issues it is, as matters stand today, the Board which must make them, subject to appeal to the Governor in Council and, on questions of law, to the Supreme Court. Yet it is doubtful if it was ever contemplated that the Board should deal with matters of this sort. In the course of nearly half a century it has shown little disposition to do so. If an issue of this magnitude has to be faced there is a strong case for giving the Board legislative guidance. It must be borne in mind that the decisions will affect the fortunes of all privately-owned railways and the earnings of the Canadian National Railways as well. They are decisions of a permanent nature and it is difficult for them to receive due consideration in the course of a specific revenue case.

"It would be in accordance with sound principles for decisions of such major importance to be made by Parliament itself. It alone can speak with finality."

It has not been the practice of the Governor in Council to issue directives to the Board unless and until the Board has passed upon issues which came before it. In the absence, therefore, of any intervening guidance either directive or legislative since the clarifying statute of 1881, we must I think scrutinize the purport of that statute and the extent to which it may be regarded as an expression of the intention of Parliament in looking at subsidies and grants. I do not find in the 1881 legislation anything that prohibited or precluded Canadian Pacific, under all circumstances from earning any return whatsoever on subsidies and bonuses mentioned therein. It is however apparent, in my opinion, that Parliament dealt differently with subsidies and bonuses, on the one hand, and with the capital of the Canadian Pacific, on the other, so far as earnings return and rate control were concerned. Sections of railway to be conveyed by the Government to Canadian Pacific were also apparently not included, certainly not expressly included, in such subsidies and bonuses. I will refer to these sections of railway later herein. I am thus led to conclude that if Parliament in 1881 had before it the determination of a net rail investment such as is now before us, it would not have completely included donations and grants in such net investment nor totally excluded them.

We have not attempted to determine precisely when, by reason of subsequent amendments to the Consolidated Railway Act of Canada and the Railway Act, the provision which enabled Parliament in 1881 to reduce rates if Canadian Pacific were earning more than a 10 per cent return on its capital ceased to be effective as it is sufficient for our purposes to know that at present we are no

longer bound by it. Let us look back to 1881 for the purpose of ascertaining what was the attitude of Parliament at that time towards donations and grants. In this connection Mr. Evans, in the supplementary argument of October last, stated at page 11427 (Vol. 934):

"Now then, in arriving at the capital expended, it was decided to put in a definition of what that 'capital' should be.

"Now as of that moment all the effect of that statute was to say that Parliament had said, as a matter of statute, we will not interfere but we are reserving the right to interfere with Donations and Grants.

"That is all they said. They did not say 'You must not have a return on Donations and Grants.' They said: 'We are giving up our right to interfere as regards capital expended, as we define it, but we are not giving up our right to interfere as regards Donations and Grants' and I want to make it clear that there is nothing in the Act, even although it was not repealed, which said that the railway was not to have some return."

We believe that, because of the historical background and the impact of the early "partnership" inter-dependence between the company and the nation, this whole matter of donations and grants merits an especially broad approach by all parties concerned. Although Canadian Pacific, by reason of the fulfilment of its contractual obligations up to this time, might well be entitled to "some return" or the equivalent thereof on the overall amount of donations and grants, we do not think the Company should be entitled to reap wholly the same benefits therefrom as from the investment in the rail enterprise by shareholders and other corporate investors.

There are three ways in which this distinction might be given effect to, were the Board to utilize the net rail investment as ONE of the "end" tests in considering the reasonableness of a permissive level of rates. We might (a) include all donations and grants in the net rail investment and allow something of a subnormal or diminished overall return thereon which might vary with changing economic conditions; (b) exclude all donations and grants from the net rail investment and allow something of an abnormal or added overall return thereon which might vary with changing economic conditions, or (c) if circumstances warranted, permanently include certain specified donations and grants in the net rail investment and likewise exclude certain others. We think the last named method would be preferable from the point of view of both the public and the railways in that it has an attribute of definiteness and it is important in the interest of future expeditious administration by the Board that, as far as possible, the field of long outstanding contentious issues should be narrowed. We also think that because of certain circumstances the present case would lend itself to the last named method of solution.

It has been previously noted that Canadian Pacific included in the exhibits filed a sum of \$35,117,152 being the cost to the Dominion Government of partially completed sections of the railway begun by the Government and conveyed to Canadian Pacific under the 1881 Act. It is to be observed that Section 7 of the Schedule attached to the said Act reads as follows:

"The railway constructed under the terms hereof shall be the property of the Company; and pending the completion of the Eastern and Central sections, the Government shall transfer to the Company the possession and right to work and run the several portions of the Canadian Pacific Railway already constructed or as the same shall be completed. And upon the completion of the Eastern and Central sections, the Government shall convey to the Company, with a suitable number of station buildings and with water service (but without equipment), those portions of the Canadian

Pacific Railway constructed or to be constructed by the Government which shall then be completed; and upon completion of the remainder of the portion of railway to be constructed by the Government, that portion shall also be conveyed to the Company; and the Canadian Pacific Railway shall become and be thereafter the absolute property of the Company. And the Company shall thereafter and forever efficiently maintain, work and run the Canadian Pacific Railway."

And Section 9 of the same Schedule reads:

"In consideration of the premises, the Government agree to grant to the Company a subsidy in money of \$25,000,000, and in land of 25,000,000 acres, for which subsidies the construction of the Canadian Pacific Railway shall be completed and the same shall be equipped, maintained and operated, —the said subsidies respectively to be paid and granted as the work of construction shall proceed, in manner and upon the conditions following, that is to say: . . ."

Now the amending Act of 1881, chap. 24 of the Statutes of that year, to the extent it did so, excluded only subsidies and bonuses and it did not describe the said sections of railway under construction as a subsidy or bonus, and it appears to have been recognized by Parliament that Canadian Pacific had given undertakings which placed the assets represented by these sections of railway in at least a somewhat different category than the subsidies of \$25,000,000 in money and the 25,000,000 acres mentioned in Section 9 of the Schedule. In connection with the inclusion in or exclusion from the net investment of donations and grants, I would, therefore, follow an intermediate course which is somewhat akin to that which Parliament apparently followed in dealing with donations and grants in 1881. Accordingly, I would include in the net investment of Canadian Pacific for present purposes the aforementioned sum of \$35,117,152 and I would exclude therefrom all other donations and grants of \$43,484,323 which go to make up the total sum of \$78,601,475 set out in Exhibits 52-150 and 52-151.

Previously herein, we said: "It should be noted here that although the values of certain lands granted by the dominion and provincial governments for right of way and other rail purposes have not been included in Canadian Pacific's rail investment as submitted by the Company, most of the lands donated for financing purposes were sold and the proceeds thereof were credited, in the first instance, to Land Surplus Account. No doubt a considerable, yet specifically unascertainable portion of such proceeds was used to pay for rail property purchased by the Company and the cost thereof was included in rail investment." We are not disposed to make any addition to the amount of the net rail investment claimed by the Canadian Pacific in respect of government land grants for right of way and other rail purposes. We are, however, disposed to increase the amount of \$78,601,475 for Donations and Grants, as set out by the Company in Exhibits 52-150 and 52-151, to record what we deem to be reasonable assigned acquisition values as of contract dates covering government land grants (a) subsequently resold to the government and (b) subsequently sold or held for sale to the public. We deal later with the related adjustment made by the Board in respect of Reserve for Depreciation without any concurrent change being made in the net rail investment as a result of such adjustment.

In indicating to counsel some of the matters upon which we wished to hear evidence at the October 1953 re-hearing on donations and grants, there was a request for evidence as to what was a reasonable value to be placed on the

land subsidy of 25,000,000 acres at the time the subsidy was made. In this connection, Mr. Reid of Canadian Pacific supplied the following evidence, at pages 11286 to 11290 (Vol. 934) of the transcript:

"1. Value of the Lands at the Time of the Making of the Grant.

"A search of historical documents has been made to develop the value placed at the time of the making of the grant on the 25,000,000 acres of land provided under the Contract of October 21, 1880 with the Canadian Pacific Syndicate.

"Section 30 (1) of the Dominion Lands Act (S.C. Chap. 31, 1879) was as follows:

"Unappropriated Dominion lands, the surveys of which may have been duly made and confirmed, shall, except as otherwise hereinafter provided, be open for purchase at the rate of one dollar per acre; but no such purchase of more than a section, or six hundred and forty acres, shall be made by the same person: Provided that, whenever so ordered by the Minister of the Interior, such unoccupied lands as may be deemed by him expedient from time to time may be withdrawn from ordinary sale or settlement, and offered at public sale (of which sale due and sufficient notice shall be given) at the upset price of one dollar per acre, and sold to the highest bidder."

"The exceptions were contained in Sections 32 to 35, 38 to 40, and 43 to 52, and concerned town plots, homestead, grazing, hay, mining, Indian, coal and timber lands.

"Section 34, dealing with Homestead Rights or Free Grant lands, commenced as follows:

"Any person, male or female, who is the sole head of a family, or any male who has attained the age of eighteen years, shall be entitled to be entered for one hundred and sixty acres, or for a less quantity, of unappropriated Dominion lands, for the purpose of securing a homestead right in respect thereof."

"It is thus apparent that the sale value of any great areas of privately owned land would be held down by the availability of quarter sections free to homesteaders and full sections at one dollar per acre to all applicants.

"Section 37 read as follows:

"No reservation of gold, silver, iron, copper or other mines or minerals shall be inserted in any patent from the Crown granting any portion of the Dominion lands."

"The effect of this provision would be similar, namely that potential minerals under lands would have little sale value so long as similar lands were available free or at one dollar an acre. Section 41 emphasizes this feature in the following words:

"No distinction in price shall be made between lands supposed to contain mines or minerals and farming lands, but both classes shall be sold at the uniform price of one dollar per acre:"

"Perhaps the best indication of the value of the grant immediately prior to the contract between the Government and the Canadian Pacific Syndicate is found in the language of a resolution adopted by the House

on May 5, 1880, that is, some five months prior to the execution of the Contract with the Canadian Pacific Syndicate. This resolution was as follows:

- (a) That 100,000,000 acres of land in Manitoba and the North-West Territories be appropriated for the purpose of constructing the Canadian Pacific Railway.
- (b) That such lands shall be from time to time selected and reserved by order of the Governor in Council as railway lands, and shall be of fair average quality for settlement.
- (c) That such lands shall be sold at prices to be fixed from time to time by the Governor in Council, but in no case at a rate of less than one dollar per acre.
- (d) That the proceeds of such sales, after deducting the cost of survey and management, shall be devoted exclusively to the purpose of defraying the cost of the construction of the Canadian Pacific Railway."

"(SOURCE: Report of the Canadian Pacific Railway Royal Commission—April 8, 1882—Volume III, page 24)."

"This resolution was one substituted for a resolution on the same subject, which passed the House on May 12 and 13, 1879, and which was one of a series of resolutions introduced into the House by Sir Charles Tupper, Minister of Railways and Canals, for the purposes of pressing forward with the construction by the Government of the railway to the Pacific Coast and of solving the important problem of financing which that construction involved. The resolution of 1879, for which that of 1880 was substituted, had provided for a minimum price of two dollars per acre and it would appear that the substitution of a minimum price of one dollar per acre which was made in 1880 was a recognition of the inability of the Government to obtain the higher price.

"By the Schedule to the Canadian Pacific Railway Act, 1886 (S. C. 49 Vict., Chap. 9) the Government agreed in paragraph 2 to accept in satisfaction of \$9,880,912 of indebtedness of the Company and interest thereon to May 1, 1887, a reduction of the total land grant by such acreage as would be sufficient at \$1.50 per acre to meet the sum due. It may be pointed out that when this settlement was made, the railway was already through to the Pacific Coast, thus adding value to the lands compared with that attributable at the date of the Contract.

"The question of the value of the lands at the time of the making of the grant was reviewed in later years by official bodies.

"The Royal Commission on Transportation of 1917, known as the Drayton-Acworth Commission, said at page xiv of its Report:

"Without railways the rich grain-growing provinces of the West would have remained a hunting and trapping district, or at best a grazing section, because it would have been impossible to get out the grain which constitutes the chief product of those provinces . . . Great grants of land have been given to the two principal systems in the West. But without these railways the land would have been practically valueless."

"The Royal Commission on Transportation of 1932, known as the Duff Commission, included in its Report an appendix entitled "The Development of Transportation in Canada". At page 90, in summarizing the total expenditures by Governments on railways, an allowance was made for subsidy lands by "Setting a value of one dollar an acre on lands granted."

"A search was made of records in the Department of Resources and Development, successor to the Department of the Interior, which administered the Dominion lands, to ascertain the prices being received by the Government from the sale of prairie lands at the time of the making of the grant to the Canadian Pacific. The Sales Registers from 1879 to 1881 were examined and all sales listed for 1879 were at one dollar per acre; all sales but one of 20 acres in 1880; and 81% of acreage sold in 1881, the average price for all acreage sold being \$1.20.

"The official Memorandum Respecting the Position and Prospects of the Canadian Pacific Railway, dated November 21, 1881, signed by George Stephen, President, and circulated to the shareholders, stated:

"To encourage the rapid settlement of the country, the Canadian Pacific Railway Co. have adopted a policy calculated in its judgment to attract immigrants to the North-West, by offering its lands to settlers for \$2.50 per acre, with a rebate of one-half this sum on all lands cultivated within four years. The applications for land this summer from private settlers amounted to about 360,000 acres, and negotiations are now progressing with several Land and Immigration Companies in Europe, and Canada, involving a total of nearly three million acres."

"It will be noted that, provided the purchaser performed the conditions, the price was \$1.25 per acre, which was gross before deducting surveying and selling expenses"

The Board has made some inquiries of its own concerning such early registration values of provincial land grants as are available. We find, for instance, that in British Columbia, where substantial grants of land were made an agreement was effected between Canadian Pacific, the British Columbia Southern Railway Company, and the Columbia and Western Railway Company in 1912 for the retrocession or resale of some 4,000,000 acres of granted lands at a price of 40 cents per acre. This agreement, dated January 31st, 1912, was confirmed by the Legislature of British Columbia by the Statute 1912 B.C., Chapter 37. We also find that, although there is no way of tracing actual valuation of grants to Canadian Pacific in the East, there is some indication of the value of such grants by checking grants to other railway companies which were later acquired as subsidiaries of Canadian Pacific. Thus, in the Province of Quebec railway companies had the option of commuting land grants at a price not exceeding 70 cents per acre under the provisions of the Quebec Statute of 1888, Chapter 91. This option was exercised by three companies, which settled for 52½ cents per acre, and whose railways were later leased to Canadian Pacific.

We now turn to a consideration of the widely debated question of the value of federal and state land grants in the United States during the early period of railroad and national development in that country which we consider can be likened, at least in some important aspects, to the early situation affecting Canada and Canadian Pacific. In this connection we have examined Volumes I and II of the report on "Public Aids to Transportation" published by the former Federal Coordinator of Transportation in 1938-40, and the report on "Public Aids to Domestic Transportation" published by the Board of Investigation and Research in 1944.

These reports are most informative and of monumental proportions and encompass, so far as the railroads are concerned, a wide range of economic factors in the assessment of overall public aids for railroad construction, both direct and indirect, by way of (a) land grant "net proceeds" (as distinguished

from assigned values); (b) lands granted and donated for right of way and other carrier purposes; (c) contributions of cash, materials, equipment, etc.; (d) tax deductions and duty drawbacks; (e) cash loans and security guarantees; (f) subscriptions to railroad securities; (g) vacation of streets and rights in public domain, etc.

This assessment of overall public aids for railroad construction was measured against the assessment of the benefits inherent in rate concessions by the railroads on government traffic, etc.,—which government benefits, however, under the 1945 Amendment to the 1940 Transport Act were finally withdrawn by Congress. We also find from an examination of these reports that, as at granting dates the assigned values (as distinguished from “net proceeds”) of the land grants covering some 180,000,000 acres, or approximately 10 per cent of the total area of continental United States, averaged something less than \$1.00 overall for both federal and state areas. These acreage grants applied to something approximately 8 per cent of the railroad mileage in the United States.

In the matter of evaluating public benefits, in the overall sense, accruing to the nation from railroad construction and development, the Board of Investigation and Research said at Page 112 of its 1944 report:

“ . . . It is true that public lands at the time of the grants were generally a drug on the market and had no great value in the absence of adequate means of transportation. The subsequent enhanced value of these lands resulted in large part from the construction of the railroads. It likewise is true that the building of the railroads contributed importantly to the development of the country, and hence conferred great benefits on the Nation as a whole. While this result may properly be taken into account in appraising the land-grant policy as a factor which hastened railroad construction, a consideration of the public benefits should not be confused with the question of determining the amount of public aid which the railroads received. . . .”

In reviewing the principles employed in the foregoing governmental findings on overall public aids and the purposes for which the findings were determined, it always should be borne in mind that the Interstate Commerce Commission in its rate-making considerations makes no deductions from the final “values” found by it in respect of donations and grants included therein regardless of the source of such aids.

For anyone who may be interested, we might mention that one of the recent treatises on this matter is contained in a booklet entitled “The Railroad Land Grant Legend in American History Texts” by Colonel Robert S. Henry, as a reprint from the Mississippi Valley Historical Review, Volume XXXII, No. 2, September, 1945. Colonel Henry at that time was an associate in the Association of American Railroads and it is to be assumed that he spoke primarily from the railroad point of view. Nevertheless, the treatise may be of some possible interest in that numerous governmental and other recognized authorities are referred to in some detail therein.

In Exhibit 52/191, the Canadian Pacific filed a statement captioned “Net Proceeds from Land Grant Lands to December 31, 1952”. This Exhibit also sets out land acreage data for Federal grants at 28,832,106, Provincial grants at 5,668,629, and total grants at 34,500,735 acres. The aforementioned Federal grant acreage has been reconciled by the Board with that shown by the Public Accounts of Canada. In Exhibit 52/192, Mr. Shepard, on behalf of the Provinces, filed a number of statements and detailed schedules under the general caption

"Analysis of Land Surplus Account from Inception to December 31, 1952." The latter were submitted in evidence by Mr. J. R. Barker, C.A., resident Toronto partner in the firm of Millar, Macdonald and Company.

While the technical concept of what constitutes "net proceeds" differ in the two aforementioned Exhibits, one fact stands out, namely, that the Canadian Pacific received over the some seventy years of railroad and national development a very considerable financial benefit from the Federal and Provincial land grants. In this connection it may be of some passing interest to note that in 1917 the Drayton-Acworth Commission at page xx of its report said "But even as it is, the people of Canada, in our view, have had good value for their money." It is not our purpose, however, at this time and under this application, to attempt any assessment of the broad economic factors involved in the "net proceeds" beyond ascertaining what the Board deems to be an assignment from such proceeds against Donations and Grants of reasonable acquisition values as of contract dates covering government land grants (i) subsequently resold to the government and (ii) subsequently sold or held for sale to the public.

Based on the foregoing outline of data and all submissions in evidence in respect of such reasonable assigned acquisition values as of contract dates, we are disposed to adjudicate as follows:—

- (1) On the 6,793,014 acres relinquished to the Federal Government in 1886, the application of the then stated or settlement value of \$1.50 per acre—this notwithstanding the fact that in 1886 "the railway was already through to the Pacific Coast, thus adding value to the lands compared with that attributable on the date of the contract."
- (2) On the overall 22,039,092 acres of Federal grants sold or held for sale to the public, the application of a value of approximately \$1.00 per acre, and
- (3) On the overall 5,668,629 acres of Provincial grants sold or held for sale, the application of a value of approximately 50 cents per acre.

Before arriving at any definitive total amount for acquisition values in respect of these land grants, it is necessary to refer to two accounting entries initiated voluntarily by the Canadian Pacific; one, in 1905 whereby an appropriation was made from Land Surplus and a concurrent reduction was made in rail investment in the amount of \$36,193,521, and the other in 1942 whereby the credit to rail investment was transferred to Reserves for Depreciation. Whether by accident or design this figure of \$36,193,521 coincides reasonably in total with the assigned acquisition values as of contract dates which the Board is adopting in accordance with the acreage allocation set out in the preceding paragraph. The Board considers it reasonable and proper to treat the 1905 appropriation from Land Surplus of \$36,193,521 as a credit to Donations and Grants rather than as a credit to Reserves for Depreciation, thereby establishing the reserves, for Board purposes, as at December 31st, 1951 at the amended figure of \$367,495,839 as set out later herein.

We have arrived at this decision on depreciation reserves (which does not alter the amount of the *net* rail investment) after giving due weight and the fullest consideration to the composite of:

- (a) the several vitally important qualifying comments and findings on Canadian Pacific depreciation reserves set forth in the appropriate sections of the report of our Financial Adviser's firm;
- (b) the origin of Canadian Pacific depreciation reserves and, from the viewpoint of equity, the resultant impact on Canadian rate structures of the past and present and, potentially, on those of the future;

- (c) the evidence on depreciation reserves in general given by Mr. C. W. Smith of the Federal Power Commission, and
- (d) the percentage relationship of depreciation reserves to the overall "original cost" of rail properties as adopted by the Interstate Commerce Commission in recent ex parte rate cases.

Apart from the value of land grants used for right of way and other rail purposes which are not included in Canadian Pacific's rail investment, we now summarize our findings on the total amount and allocation of donations and grants as at December 31st, 1951. To the amount of \$78,601,475 as shown in Exhibits 52/150 and 52/151 we have added the \$36,193,521 covering the assigned acquisition values of land grants (previously dealt with) making a total of \$114,794,996 by way of federal, provincial, municipal and industrial construction aids to owned and leased properties in Canada. Of this total amount, \$35,117,152, or some 30 per cent, being that portion (also previously dealt with) covering the cost to the Federal Government of the sections of railway built by the government and conveyed to the Canadian Pacific under the 1881 Act, is included in the net rail investment and \$79,677,844, or some 70 per cent, covering all other donations and grants is excluded from the net rail investment, a summary of which is set out later herein.

If the disposition of Donations and Grants which the Board has made is inappropriate, Section 53 of the Railway Act provides a ready means whereby the Governor in Council may issue a directive which is binding on the Board.

Reasonableness of the amount of working capital allotment in net rail investment— basic factor (9)

The comments on "Working Capital" in the report of our Financial Adviser's firm, at page 17, are as follows:—

"The Canadian Pacific Railway Company has included as part of its net investment in rail property an amount of \$70,000,000 as the requirements of the Railway for Working Capital. On this subject, evidence was presented to the Board in the case known as "Rate Base and Rate of Return" and in other preceding cases in support of the reasonableness of this amount. We have undertaken no separate study of the amount properly to be included as working capital. A full scientific study to determine the theoretical requirements for working capital in an enterprise as extensive as the Canadian Pacific Railway Company is a material undertaking requiring a detailed analysis of the operating cash requirements of the entire business. We did not feel that the time and expense to conduct such a study was warranted for the present purposes unless and until specifically so directed by the Board and, in consequence, we have included in the net investment figure presented herein the amount of \$70,000,000 as furnished to the Board by the Railway."

After making our own general analysis of Canadian Pacific's financial statements together with other pertinent data, and after giving due consideration to all evidence submitted during the hearings, the Board is disposed, for the purposes of the present application, to accept on an interim basis the Canadian Pacific estimate of \$70,000,000 as of December 31st, 1951.

In the present circumstances it is well to bear in mind that the working capital portion of net rail investment is not at all a fixed amount in the same sense or to the same degree that applies to the "once" established cumulative

cost of rail properties because the trends of working capital requirements, under prudent management, are closely related to changes in economic conditions. It follows, therefore, that the propriety of such working capital requirements as put forward by Canadian Pacific under the present application would be subject to re-assessment as future circumstances may require any test of reasonableness of overall return, according to the then existing trends in Canadian Pacific, general rail, and national economies. Under present circumstances, and more particularly in the light of the Board's later recorded disposition of the remaining requests under the present application, we have concluded, in common with our Financial Adviser's firm that any further detailed examination into the amount of the interim working capital allotment at this time would involve an uneconomic and therefore unwarranted expenditure of public funds.

Allocation of Communications Property to net rail investment— included in basic factor (1)

For convenient reference at this point we requote from Page 23 of the report of our Financial Adviser's firm as follows:—

"It will be noted that no adjustment has been made by us in respect of property operated by the communications department of the Company, at present included in the non-rail assets of the Company. In our report on rail and non-rail operations we recommended no change in the existing non-rail status. We have, nevertheless, made a review of the property investment of this department and of the associated depreciation reserve, in order that we may form an opinion as to the propriety of the items included therein should the Board rule that the communications department of the Company be considered as part of the rail transportation system."

The foregoing reference to "our report on rail and non-rail operations" relates to the preliminary submission made to the Board under date of December 4th, 1952, in connection with the establishment of the Uniform System of Accounting which, under Section 387 of the Railway Act, we are required to install. In this preliminary submission there is a general outline of the accounting treatment applied and the accounting classifications used by the two major railways together with the amounts of investment and annual revenues. In the concluding section of the preliminary submission, our Financial Adviser's firm summarized the position then taken as follows:—

"... It is our opinion that communication operations should be classified as non-rail. We have come to this conclusion despite the indispensable part that the communication system plays in the operation of the railway. The over-riding consideration is, in our view, the extent of the commercial telegraph operations and the need for separate financial statements."

While the Board recognizes that there is room for a wide range of opinion in support of the position taken by our Financial Adviser's firm, we incline, nevertheless, to the views both in accounting regulation and in rate-making considerations on broad balance, (a) that notwithstanding the present and potential extent of commercial operations, the ever widening application of electronics in the field of railroad communications concurrently will tend more and more to emphasize the economic importance of this particular railroad field, (b) that, because of the inter-relationship which perforce exists, the recognized need of separate financial data in specific rate-making considerations in respect of communications, as in express operations, will necessitate

separate study regardless of whether communications and/or express form part of the rail or non-rail enterprise, and (c) that the absolute indispensability of communications facilities in railroad operation should be the finally governing factor favouring the inclusion in the rail classification of such communications facilities as are, to whatsoever extent, directly required for railroad operation.

Therefore, in the light of these views held by the Board and on the basis of figures furnished by our Financial Adviser's firm, we are, for the purposes of the disposition of the present case, including communications property in the net rail investment in the depreciated amount of \$16,058,618 as at December 31st, 1951.

* * * * *

We now set out (a) the amount of the net rail investment as adopted for present purposes by the Board and (b) the related reconciliations thereof with the amounts put forward by the Canadian Pacific and as conditionally recommended by our Financial Adviser's firm.

**Amount of the Net Rail Investment of Canadian Pacific
adopted by the Board for use
as ONE of the "end" tests in considering
the reasonableness of a permissive level of rates.**

For the purposes of the present application the amount of the net rail investment adopted by the Board—for use as ONE of the "end" tests in considering the reasonableness of a permissive level of rates—is \$1,140,214,801 as at December 31st, 1951, summarized as follows:—

	<i>December 31</i>	
	<i>1951</i>	<i>1952</i>
Investment in properties less reserves for depreciation	\$1,149,892,645	\$1,185,120,924
Less: Donations and Grants excluded from properties net investment	79,677,844	79,329,912
Net Investment in <i>Properties</i>	\$1,070,214,801	\$1,105,791,012
Add: Interim amount of <i>Working Capital</i> allotment in rail investment	70,000,000	70,000,000
<i>Net Rail Investment</i> as adopted by the Board	<u>\$1,140,214,801</u>	<u>\$1,175,791,012</u>

In view of the fact that, at the request of the Board, our Financial Adviser's firm extended their examination and report thereon to December 31st, 1952, we also set out the amount of the net rail investment which the Board is adopting for its own purposes as of the later date.

The determination of the net rail investment of Canadian Pacific for the purposes of this application, as was to be expected, has proven to be a major undertaking, as also has the preparation by our Financial Adviser's firm of the first draft of the overall classification underlying the Uniform System of Accounting to govern Canadian railways. This first draft of the Accounting Classification, of which rail investment and related earnings are component parts, is already in the hands of the two major railways for preliminary study by them. It is the present intention of the Board to hold a series of informal conferences with all Canadian railways concerned, commencing as soon as possible after the date of this Judgment to hear the railway viewpoints on the proposed classification. It is our further intention, as a result of mutual arrangements already made, also to confer informally with the Interstate Commerce Commission at an early date in order that we may have the benefit of that Commission's long experience and proven practices in accounting regu-

lation, and in order that we may adopt such practices to whatever extent they may be constructively helpful in meeting comparable conditions in Canada. The international operations of Canadian National and Canadian Pacific are recognized as being basically important factors.

After due consideration of all information thus obtained from the conferences with all Canadian railways concerned and the Interstate Commerce Commission, it is the purpose of the Board then to issue as soon as possible after mid-year 1954 an official accounting classification, in pursuance of Section 387 of the Railway Act, with a view to the implementation of such classification by the Canadian railways as of January 1st, 1955. If, as a result of these conferences and further studies to be carried out by the Board in 1954, there should develop any new facts or new circumstances not now known to the Board, we would, as a matter of routine, accordingly adjust the aforementioned amounts adopted as net rail investment as at December 31st, 1951 for the purposes of the present application, and as at December 31st, 1952 for the Board's own purposes.

Summarized Reconciliations between the Differing Amounts of the Net Rail Investment as put forward by the Canadian Pacific and as conditionally recommended by our Financial Adviser's firm on the one hand, and the amount adopted by the Board on the other—All as at December 31st, 1951.

Net rail investment put forward in <i>CANADIAN PACIFIC</i> Exhibit 52/102			\$1,146,664,833
"Minus" adjustments made in Financial Adviser's Exhibit "A-1" in respect of:			
Dividends, security discounts and premiums, depreciation accruals, etc.	\$	16,404,386	
Transfers of net investment in property from "rail" to "non-rail" classification		4,740,687	21,145,073
			<hr/>
			\$1,125,519,760
"Plus" adjustments made in Financial Adviser's Exhibit "A-1" in respect of:			
Transfers of net investment in property from "non-rail" to "rail" classification			42,120,746
			<hr/>
Net Rail investment as shown by Exhibit "A-1" of our <i>FINANCIAL ADVISER'S FIRM</i>			\$1,167,640,506
Further "minus" adjustments made by the Board in respect of:			
Donations and grants subject to the related "plus" adjustment shown below			79,677,844
			<hr/>
			\$1,087,962,662
Further "plus" adjustments made by the Board in respect of:			
Land Surplus and Reserves for Depreciation in relation to Donations and Grants	\$	36,193,521	
Transfer of net investment in communications property from "non-rail" to "rail" classification		16,058,618	52,252,139
			<hr/>
Net rail investment as adopted by the <i>BOARD</i> , for the purposes of the present application, as at December 31, 1951			\$1,140,214,801

A further condensation of these reconciliations involving overall adjustments of \$113.3 million is as follows:—

Net rail investment put forward in <i>CANADIAN PACIFIC</i> Exhibit 52/102		\$1,146,664,833
Add: Net amount of transfers of investment in property from “non-rail” to “rail” classification		53,438,677
		<hr/> \$1,200,103,510
Deduct: Accounting adjustments in respect of dividends, security discounts and premiums, “user” basis depreciation accruals, etc.	\$16,404,386	
Board Policy adjustments in respect of Donations and Grants in the NET amount of	43,484,323	59,888,709
	<hr/>	<hr/>
Net rail investment as adopted by the <i>BOARD</i> , for the purposes of the present application, as at December 31st, 1951		<u><u>\$1,140,214,801</u></u>

It is important to note that the aforementioned net additions to the Canadian Pacific Exhibit by way of transfers of property at depreciated book values in the amount of \$53,438,677 will place the related operating results in any future rate case considerations in the rail category. The companies and services embodied in these transfers are set out in Exhibits “P-1” and “P-2” of the report of our Financial Adviser’s firm to which we have added communications property.

We do not look upon the fact that the net rail investment as a whole which we have established is but \$6.4 million less in the final analysis than that claimed by the company as being other than a matter of coincidence. This may be seen from the foregoing summarized reconciliations when considered in conjunction with the governing fact of the findings of our Financial Adviser’s firm as to the basically sound capital expenditure accounting policies of the Canadian Pacific, by and large, over the 70-year period covered in the course of their examination.

It is to be recalled, however, that beginning with the 21 per cent case in 1948 the Board itself has repeatedly commented on the lack of any accurate finding of such investment and our disposition to make such a finding was rather placed in doubt by observations made in the 1951 Royal Commission Report on Transportation.

It is, therefore, I consider, a matter of importance for the future that the Board should remove the underlying causes which prompted the foregoing comments and this, I believe, we have now done while at the same time carrying out one of the implied, if not altogether complementary, duties imposed on us pursuant to Section 387 of the Railway Act as amended in 1951.

Supplementing the foregoing reconciliations covering net rail investment, we set out below similar reconciliations relating to the Reserves for Depreciation as at December 31st, 1951:

Reserves for Depreciation put forward in <i>CANADIAN PACIFIC</i> Exhibit 52/102		\$384,204,606
"Minus" adjustments made in Financial Adviser's Exhibits "A-1" and "P-1" in respect of:		
Transfers of net investment in property from "rail" to "non-rail" classification	5,700,488	
		<u>\$378,504,118</u>
"Plus" adjustments made in Financial Adviser's Exhibits "A-1" and "P-2" in respect of:		
Reversals (in C.P. Exhibit 52/102) deemed to be in excess of the sums actually disallowed by the Board in prior rate cases	\$5,151,578	
Transfers of net investment in property from "non-rail" to "rail" classification	4,350,056	9,501,634
		<u>9,501,634</u>
Reserves for Depreciation as shown by Exhibits "A-1", "P-1" and "P-2" of our <i>FINANCIAL ADVISER'S FIRM</i>		\$388,005,752
Further "minus" adjustments made by the Board in respect of:		
1905 Appropriation from Land Surplus now transferred from Reserves for Depreciation to Donations and Grants		36,193,521
		<u>\$351,812,231</u>
Further "plus" adjustments made by the Board in respect of:		
Transfer of net investment in Communications Property from "non-rail" to "rail" classification		15,683,608
		<u>15,683,608</u>
Reserves for Depreciation as adopted by the <i>BOARD</i> for the purposes of the present application as at December 31st, 1951		<u><u>\$367,495,839</u></u>
* * * * *		

Having disposed of the request to determine the net rail investment of Canadian Pacific, we now turn to a consideration of the requests relating to the establishment of a rate base and rate of return.

THE REQUEST THAT THE BOARD ESTABLISH THE NET RAIL INVESTMENT THUS FOUND FOR CANADIAN PACIFIC AS A RATE BASE, AND THE REQUEST THAT THE BOARD RENDER A DECLARATORY JUDGMENT STATING THAT NOT LESS THAN 6½ PER CENT IS A FAIR RETURN ON SUCH BASE RATE

Initial approach to these requests.

Mr. Macpherson, in his opening remarks on argument (p. 2711, Vol. 916) commented on the terms "rate base" and "net rail investment" as follows:

"The Canadian Pacific in its application asks for the establishment of a rate base and the fixing of a rate of return thereon by this Board. In their evidence they have used over and over again the term 'net rail investment'. May I spend a moment just commenting on the use of terms. To us from the Provinces the term 'net rail investment' holds no terrors and presents no cause for real alarm. But, the term 'rate base' as used, even though it may be suggested it is synonymous, has a sinister meaning.

There is something ominous and baleful about it for the simple reason that its mere use means that a multiplier termed 'rate of return' must be supplied to complete the picture, and rate of return on what Canadian Pacific witness Nixon at page 240 of the transcript testifies means \$79 million more in revenue which must come from freight, or, in terms of freight rate increases, an additional 35 per cent increase.

"'Rate base', what is more in its connotation, is associated invariably with 'rate of return' and it implies finality, a conclusive ending, a consummation which may be, and which, I am sure, the C.P.R. would devoutly wish, but which, particularly after having heard argument by Counsel for the Canadian Pacific, I would say that we of the Provinces must shun and avoid as we would the plague.

"Now, I want to tell, very simply, the Board why I think we should so avoid it. If 'rate base' (I think 'rate base' should obviously read 'net rail investment') is today by you established as 'rate base' the next material step is fixation of a 'rate of return' with increased freight rates, and that they ask you to do. That, immediately, is an increase of 5 per cent. Now, Mr. O'Brien yesterday at page 2398 used these words:

'What Canadian Pacific is asking for in the present application is simply this—that this Board should state that under present circumstances a fair return on the net investment in its rail enterprise would be $6\frac{1}{2}$ per cent and that for the moment Canadian Pacific should be permitted to fix tolls and rates which would give it the opportunity to earn a return equivalent to the 5 per cent.'

I ask the Board to consider those very meaningful words, 'for the moment'—

'... a fair return on the net investment in its rail enterprise would be $6\frac{1}{2}$ per cent and that for the moment Canadian Pacific should be permitted to fix tolls and rates which would give it the opportunity to earn a return equivalent to the 5 per cent.'

I think that in certain circumstances "net investment" and "rate base" may be regarded as synonymous, as was the case in *Northwestern Utilities Limited v. City of Edmonton*, 1929, S.C.R. 186. In that case litigation resulted in a claim by the interested parties whereby the rates would be determined by the Public Utilities Commission, and there was agreement that the net investment should be a rate base. The Public Utilities Board was, in the words of Lamont, J. "determining what would be a fair return on the capital invested by the company in the enterprise". That case is distinguishable from the present case where instead of agreement there is the strongest objection by the respondents to the use of net investment as a rate base.

If we establish the net rail investment as a rate base it would follow that we would have to fix a rate of return thereon for rate making purposes. If, on the contrary, we refuse to adopt the rate base-rate of return method as the sole method of determining the general level of rates, it will not be necessary to establish a rate base or a rate of return on such rate base and in the event of such refusal, we would decline to adopt as a rate base the net rail investment we have established and would also decline to fix a rate of return of not less than $6\frac{1}{2}$ per cent thereon as requested by the Canadian Pacific.

We will, therefore, proceed to examine the merits of the rate base-rate of return method.

Merits of the principles underlying the Rate Base-Rate of Return Method which, within the meaning of this Application, would be the sole method of determining a permissive level of rates

Counsel for Canadian Pacific contend that the requirements method is cumbersome and complicated, unfair and unreasonable. However, the Board's regulatory experience has extended for practically the past fifty years and during that time it has never established railway rates by the rate base-rate of return method. It is true that the Board has encountered difficulties in determining the financial needs of the railways by the requirements method but through trial and error and some direction by Order in Council, at least some difficulties have been overcome, with the result that the requirements method is not now as cumbersome or as complicated as it appeared to be on some previous occasions; however, the requirements basis is not and never has been immutable or inflexible.

On the question of simplicity although the rate base-rate of return method may have certain merits in that respect we are not convinced that it provides an easy road, far less a through road to the establishment of the general level of freight rates.

Now dealing with the merits of the question, the main reasons for urging the Board to cast aside the requirements method and adopt the rate base-rate of return formula are clearly set out in the argument of Mr. O'Brien, in Vol. 916 of the transcript, between pages 2388 and 2397. The following are some of the essential extracts from the above mentioned argument:

"The 21 per cent judgment, decided early in 1948, dealt with the financial requirements as proposed by the Canadian Pacific on the basis of the allowance for fixed charges, dividends and surplus as estimated for the year 1947. As appears from page 24 of the pamphlet copy of this judgment, the total of these requirements for Canadian Pacific was \$54,545,000."

"Now, it was only when the actual results for the year were received after the close of the hearing and after the first part of the judgment was written that it appeared that the fixed charges for the year 1947 had been reduced, in consequence of which the total of the requirements allowed by the judgment was reduced from \$54,545,000 to \$52,332,000.

"... the net investment in rail enterprise of the Canadian Pacific as at January 1, 1947 was \$997,610,000, so that the Board in the first part of the 21 per cent judgment would have allowed on the requirements basis a return of approximately $5\frac{1}{2}$ per cent on the basis of estimated requirements for 1947. The Board did, in fact, allow a return of approximately $5\frac{1}{2}$ per cent on the basis of actual requirements for that year, when the actual fixed charges came in."

"Now, as your lordship will remember, the Respondents took an appeal from this judgment to the Governor-in-Council as a result of which it was referred back to this Board for review. This review was heard in the early months of 1949 and the result of it appears in the so-called 8 per cent judgment issued in September, 1949. In that judgment the Board reduced the requirements as a result of the apportionment of fixed charges as between rail and non-rail enterprises and as a result of this, as shown by Exhibit 52/159, the same Exhibit I have just mentioned—the requirements allowed for the year 1947 were reduced to \$49,366,000 and the return in consequence of the net investment in railway property became 4.95 per cent in that year as compared with the $5\frac{1}{2}$ per cent which the Board had previously allowed.

"Although in succeeding cases no change was made in the formula of requirements, the fact is that these requirements as a result of the reduction in fixed charges and in the exchange rate which affected the amount of the 4 per cent dividends on the preferred stock—these requirements were reduced year by year until they reached the low point in 1951 of \$45,888,000.

"At this point in 1951 the net investment in the railway property had grown—as again appears from Exhibit 52/159—to the sum of \$1,099,012,000 and the return as a result of the growth in the Investment Account and the decline in the requirements for fixed charges, dividends and surplus had declined to 4.18 per cent.

"Now, the Board, in its finding in the 17 per cent judgment made its finding on the basis of the constructive year at the close of the year 1951 and arrived at the figure of \$46,644,000 as the level of requirements. However, as at January 1st, 1952, the net investment in railway property had grown by an additional \$50 million and the permissible return correspondingly decreased to 4.07 per cent.

"As at 1st January, 1953, the Investment Account, as shown by the same exhibit, had risen by a further \$36 million and with the so-called requirements remaining at \$46,644,000. The permissible return thereby declined to 3.95 per cent.

"Thus, between the first writing of the 21 per cent judgment and the present time, the combined effect of three factors has served to reduce the permissible return of Canadian Pacific rail enterprise from approximately 5½ per cent to 3.95 per cent."

"To summarize these factors, they are:

- (1) a decline in fixed charges during 1947 and since that time,
- (2) the apportionment of fixed charges in the first part of the 8 per cent judgment under which the 21 per cent judgment was reviewed, and
- (3) the steadily increasing amount of the net investment of Canadian Pacific in its rail enterprise.

"Now, this decline in the return is clearly attributable to the frailties of the so-called requirements basis—one which I frankly admit we submitted to the Board ourselves in the first instance.

"It is clear, my lord, that if constantly increasing investment in rail property is to mean that the return earned on such investment is just as constantly to decrease, then it will soon be impossible to attract any capital to the Company.

"As may be noted from Exhibit 52/159, the average rate of return permitted on the net investment in the rail enterprise of Canadian Pacific is now less than Canadian Pacific has to pay for the attraction of debt capital, even with the added privilege of conversion of debt capital into equity as an inducement. The permissible earnings of Canadian Pacific at the present time yield a rate of return which is roughly the equivalent of what investors are now demanding for risk-free capital as indicated by the most recent issue of Government of Canada securities.

"In these circumstances, my lord and members of the Board, it is obvious that some formula other than that heretofore used must be found and, in our submission, the only reasonable and fair formula is that now proposed to the Board."

It may be seen that the first, and perhaps the main argument against the continued use of the requirements method is because, looked at in terms of a return on so-called net rail investment during the last several years, a progressive decline therein has taken place with the result that it has fallen from 5½ per cent in 1947 to 3·95 per cent in 1953.

In connection with the foregoing argument I think I should say at the outset that at no time prior to the present judgment had the net investment of Canadian Pacific in its rail enterprise been determined, but even assuming that in 1947 the net rail investment was a known quantity I do not consider because the equivalent of a return of 5½ per cent thereon was allowed in 1947 and 3·95 per cent was allowed in 1953 that this happening of and by itself constitutes proof that the requirements method was faulty. Even if a fair return on net investment were the only factor to be considered in rate-making there is room for considerable variation therein within the limits of what is just and reasonable. A return might be on the border line between what Chief Justice Hughes described in the case of St. Joseph Stock Yards Company and the United States of America, 298 U.S. 38, at page 53, as "the forbidden reaches of confiscation" and what would be just and reasonable. On the other hand a permissive return might be in the top of the bracket of what is reasonable and might border on something that was generous rather than just. Altered circumstances and conditions could readily account for a variation in a rate of return from one period to another. It should also be borne in mind, I think that as late as January 20th, 1953, paragraph 8 of the present application sets out the following statement:

"For purpose only of the immediate increase herein applied for and without prejudice to the further applications contained in the subsequent paragraphs hereof, Applicant accepts the sufficiency of the net railway earnings for Canadian Pacific of \$46,644,000 referred to in paragraphs 2 and 7 hereof."

Notwithstanding that permissive earnings in our last judgment had decreased from \$52,332,000 in the 21 per cent case to \$46,644,000, it might be useful to examine the consequences in the interval of such decrease, the effect in the end result of such permissive earnings and to what degree and in what manner the requirements formula and the said permissive earnings took care of the needs of Canadian Pacific. It goes without saying that the permissive earnings were calculated to make provision for meeting the justified expenses or costs of operating the rail enterprise of Canadian Pacific as well as depreciation recognized by the Board but they were also designed to take care of the major portion of income taxes and fixed charges, the entire dividends on the corporation's preferred stock and a 5 per cent dividend on its common stock. In addition they were calculated to make provision for an allowable "surplus" or "retained earnings", as it has been more recently and more accurately described, in excess of \$15,000,000. I do not think that the foregoing would support a claim that the reduced permissible earnings have been unjust or unreasonable in their consequences. We might add, notwithstanding that the amount of permissive earnings had fallen to \$46,644,000 and the allegation that the cost of raising capital was increasing, Canadian Pacific at the end of 1952 raised capital by the issuance of convertible debentures to the extent of some \$35,000,000, and the issue was over-subscribed.

The foregoing I think indicates that up to now at least the requirements formula has resulted in the fixation of just and reasonable rates both to the railways and the public. Furthermore, such rates have not prevented Canadian Pacific from maintaining its credit and standing in the financial world nor from

rendering its securities marketable. On the one hand, it cannot be denied that with little exception every increase which the Board has granted has been vigorously resisted by counsel for the Provinces. On the other hand, I think it can be said that there has been no serious complaint from the public about the adequacy of railway service, and the reason for this, I believe, is that instead of deteriorating it has improved in the recent past.

The overall reasonably satisfactory results we have set out in the immediately preceding paragraph are factors which influence the Board when determining the level of rates which may well be weighed apart from or in conjunction with any return which rates are calculated to yield on the net investment of Canadian Pacific in its rail enterprise.

Counsel for Canadian Pacific also urged that the rate base-rate of return method would resolve the difficult question of apportionment of fixed charges and other corporate obligations and avoid the complications attendant upon dealing with "other income" of Canadian Pacific which for many years has had a common treasury for rail and non-rail enterprises. It was also urged that once the net investment is established as a rate base it would be comparatively simple to determine a fair rate of return thereon.

It is worth noting here that whether the requirements or the rate base-rate of return method is used, it will still be necessary in a general rates case to have statistics, data and estimates in respect of the volume and consist of traffic moving and expected to move, the effect of changes in rates on traffic, costs of maintenance of equipment and maintenance of way, construction and other operating costs, and generally all necessary estimates, data and statistics to show gross revenues and expenses under existing and proposed rates. The immediate object of the rate base-rate of return method, like the requirements method, is the determination of permissive net earnings. Permissive net earnings are most important in the determination of a general level of rates, but such level cannot be established without consideration of volume and consist of traffic and the factors that influence such volume and flow of traffic.

The Board's duty, as set forth in section 328 (5) of the Railway Act is to "fix, determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of transportation may from time to time require." The Royal Commission on Transportation, 1951, significantly said at page 70 of its Report that "The task of the Board in fixing, determining and enforcing just and reasonable rates, involves a duty to both the railways and to the public; the Board must therefore be in a position that will enable it to determine, insofar as possible, the balance which will bring about this desired end. But since economic conditions may be such that different considerations exist under one state of affairs than under another, it is not proper to lay down the priority which should be given to the principles which guide the Board." It is clear however, that Canadian Pacific by its application seeks to make one consideration namely, fair return on net investment, the determining factor in the establishment of just and reasonable rates as a whole.

The merits and demerits of the rate base-rate of return method were raised before the Royal Commission on Transportation in connection with the following amendment to the Railway Act proposed by Canadian Pacific:

"Rates shall not be deemed to be just and reasonable unless, taken as a whole, they are sufficient to provide a fair return upon the investment in the railway property of Canadian Pacific Railway Company and the Board may from time to time determine the investment in railway property upon which the return is to be calculated and the rate of such return."

In that respect the Royal Commission at page 70 of its report said: "The Canadian Pacific by its proposed amendment, asks that priority be given to the principle of a fair return on investment; yet experience has shown that such a factor may not be the guiding factor, it may be one which in times of economic depression must give way to other considerations". Again, "If the proposed amendment submitted by the Canadian Pacific Railway were adopted it would tend to make the Board mere computers of a rate base and a rate of return, and calculators of the amount of increases necessary to bring about that rate of return. The Board should not be so atrophied. The Board's duty is to consider the justness and reasonableness of rates not only as a whole, but in particular as well. Fair return on property investment may be one of the tests; it must not be either the sole or guiding test."

It appears to us that the Canadian Pacific's proposal now under consideration by us would accomplish in practice what the Royal Commission refused to recommend either in practice or as legislation.

Although issue may be taken with a few opinions expressed in the Report and changed times and circumstances may outmode or diminish the applicability of some of the dicta contained therein, I think it behooves the Board not to regard lightly the views expressed by the Royal Commission as above stated, particularly as one of the purposes of the Royal Commission was "to review the Railway Act with respect to such matters as guidance to the Board in general freight rate revisions."

It is clearly the contention of Counsel for Canadian Pacific that other income is to be entirely excluded from the proposed rate base on which the requested rate of return would be founded. What is not so clear, however, is what weight, if any, Counsel for Canadian Pacific wishes us to give to other income in determining whether or not to fix $6\frac{1}{2}$ per cent or the lower return of 5 per cent which apparently Canadian Pacific is prepared to accept as a fair return "for the moment". My doubts in the matter arise from the different approach to the subject made by two of the witnesses called by Canadian Pacific, namely, Mr. Nixon and Mr. C. W. Smith. After comparing returns in railways and other utilities, Mr. Nixon gave it as his opinion that 7 per cent, rather than $6\frac{1}{2}$ per cent, would be a fair return, and in making this calculation he excluded entirely the effect of other income. Mr. Smith, on the other hand, although he stated that in his view $6\frac{1}{2}$ per cent would be "low", in making his calculation conceded that the effect of other income should be taken into account in calculating the cost to the corporation of obtaining new capital. Taking these two statements together it can be inferred that Mr. Smith in calculating the rate of return took the impact of other income on financing costs into account to the extent of one-half of one per cent.

Counsel for Canadian Pacific did not state which evidence on this point was preferred by them, but I took it that they preferred that the Board accept Mr. Nixon's evidence but if it were not prepared to go to the length of accepting Mr. Nixon's testimony then Mr. Smith's testimony should be accepted as an alternative.

The question of the weight to be attached to other income takes on added importance because of the appeal to the Governor in Council which was made in respect of the 21 per cent judgment and the reference back to the Board by the Governor in Council as a consequence of the said appeal.

In referring back to the Board the 21 per cent case, the Governor in Council in P.C. 4678 gave the directives to the Board which are found previously in this judgment.

As a consequence, in the 8 per cent judgment and subsequent 16 per cent and 20 per cent judgments, the Board gave what it considered to be appropriate effect to the above mentioned directives but, as was stated earlier, the provinces were not satisfied with the manner in which the Board had attempted to follow the directives and they lodged another appeal to the Governor in Council, which was dismissed.

I consider that the effect of the two foregoing appeals was to place the Board in the position where it must in general rate cases give some consideration to other income. So long as we have a yardstick company which has other income and fixed charges and other corporate obligations for which the company's income from both rail and non-rail enterprises is liable, we will be confronted with the implementation of this direction. If we were to adopt the method inherent in Mr. C. W. Smith's presentation and give effect to other income by making allowance for it in fixing the rate of return, it is not clear to me from the evidence of the witnesses for the applicant on the subject to what extent they would have us adjust the rate of return so that in the end result an apportionment of corporate obligations between rail earnings and other income would be made as directed by P.C. 4678. In this connection I would point out as Mr. Frawley argued that we would be flying in the face of P.C. 4678 if we adopted the rate base-rate of return method such as suggested by Mr. Nixon because he admittedly left "other income" entirely out of his calculations.

It is true that the existence in the yardstick company of non-rail assets and other income adds to the difficulties of applying the requirements method or any other method but these difficulties are ones of which we have had experience and I am not sure that the adoption of the rate base-rate of return method as the sole determinant even if we deemed it advisable to do so would not result in an exchange of known troubles for ones we do not know.

The applicants submitted evidence showing that in the United States public utility companies other than railways were regulated as to the fixation of rates by the rate base-rate of return method, and also indicating the return allowed on such rate base. Dr. Bonbright, Public Utility Consultant, and Professor of Finance in the Graduate School of Business, Columbia University, a witness called by the respondents, stated that the rate base-rate of return method was specially tailored in the United States for gas, electrical and telephone companies and that the unqualified adoption of it would not apply in the railway field and that if the above method as proposed by Canadian Pacific were adopted by the Board, in his opinion it would not last a year. Mr. G. E. Goldthwaite, Public Utility Consultant, also called by respondents, testified along similar lines. It is significant too that Dr. Miller, Professor of Transportation at the University of Pittsburgh, who appeared on behalf of Canadian Pacific, stated that the Interstate Commerce Commission had never made a declaration of what they considered to be a fair return and that as far as that body was concerned the rate base-rate of return criterion had been a dead letter for thirty years. Mr. C. W. Smith, on the other hand, while admitting the railway field was not his specialty, was of the opinion that the rate base-rate of return method as a determining factor would prove as practical for the railway utilities as it has been in gas, telephone and other like utilities. I would observe however in the above connection that although some of the practices followed in the regulation of utilities other than railways may be scrutinized with much profit, where a rate base and rate of return are concerned we must distinguish between railways and other public utilities. In

drawing this distinction between a railway enterprise and other utilities, the Interstate Commerce Commission in a decision filed on August 10, 1953, in Ex Parte 175 made the following observations:

"There is also a dissimilarity between the railroads and the public utilities generally. Public utilities are usually engaged in a single line of utility business, such as electric, gas, water, telephone, steam or other service. In some instances they are engaged in more than one of these services. Utility companies engaged in producing and distributing one or more of these varied services require essentially separate and distinct facilities, each highly specialized for the performance of a particular service. The rates of return allowed these utilities are separately determined for the respective gas, electric, steam, water, telephone, and other properties, and not as composite rates of return for the combined properties where two or more of these services are performed by a single corporation, as in the case of the railroads.

Another basic difference between the rates of return in the public utility industry and in the railroad transportation industry, respectively, is the relatively monopolistic position occupied generally by utility enterprises, on the one hand, and the relatively competitive position of the railroads, as well as most transportation enterprises, on the other.

With minor qualifications, the regulatory policy which has developed with regard to public utilities is to require that all service of each particular type within a specifically defined geographical area shall be performed by only a single company, other companies being prohibited from competing in such particular service within each particular area. This generally monopolistic policy renders all persons and all industries within each of such areas almost wholly dependent upon a single company in each area for any one service, such as light, heat, power, water, telephone, and the like. Prior to the advent of air and motor transportation, the railroads occupied a somewhat similar monopolistic situation, but this has long ago ceased to be true.

The railroads in the territories they serve compete for business with other railroads, and also with motor carriers, water carriers, freight forwarders, air carriers, and pipe lines. With all these competitive means of transportation the railroads have done well. In many cases the railroads have abandoned passenger service, and abandonments of branch lines continue.

The facts recited discount considerably the value of comparisons of earnings between railroads and public utilities furnishing individual types of service and correspondingly weaken the argument that railroads are entitled to a level of rates for the transportation of freight which will yield a rate of return on their composite investment in freight and passenger facilities equivalent to the rates of return allowed such public utilities."

I might add, apart from the fact that railways in Canada do not occupy a monopolistic field to the same degree as certain other types of utilities, the railways are required to operate light traffic branch lines and general passenger services which are frequently unremunerative.

While admitting that the Interstate Commerce Commission does not use the rate base-rate of return method as the sole determinant of the general level of rates, the applicants submitted evidence to show the return on net rail investment earned by a number of Class I United States railways. In comparing Canadian railways with those of the United States the position of the

former is unique inasmuch as by statute they are required to carry Western grain freight, which by volume in terms of ton miles is a substantial percentage of their total traffic, at the same level of rates as prevailed in 1899. This affects the net return on rail investment particularly when it becomes difficult or impossible to transfer the burden of the deficiency to the other classes of traffic WITHOUT LOSS OF VOLUME.

Railway counsel in the course of argument stated that rates can only be said to be just and reasonable when railways receive the cost of service including cost of capital and the public is not forced to pay unconscionable rates. Counsel for the respondents on the other hand replied that the Board's duty is to see to it that the shippers, and particularly those who are most dependent on the railway, are not called upon to pay any more than the service is worth and the Board should not leave it entirely to the discretion of the railways, in their quest for what they consider a fair return, not to charge shippers more than what the service is worth to them, because to do so would amount to an abandonment of our duty towards the public whose interests should take precedence.

In connection with the precedence or priority which should be given in certain instances to the shipper over the carrier, Mr. F. D. Smith, Counsel for the Maritime Provinces, posed the question "What happens when the rights of the carrier and shipper are irreconcilable?" In the 15 per cent Case 1931, 178, I.C.C. 539, the Interstate Commerce Commission approved the following statement of law found in *Corpus Juris* Vol. 10, page 418:

"The public is entitled to demand that no more shall be exacted from it than the services rendered are reasonably worth, and this right takes precedence even over the right of the carrier to a fair return on its investment when the two rights can not stand together. In consequence, the value of the service to the public is an important factor in determining the reasonableness of the rates charged therefor."

We consider that the rate base-rate of return method as the sole criterion for rate making purposes does not sufficiently take into account the rights of the public when such rights and those of the carrier are difficult or impossible to reconcile.

Without purporting to summarize all the reasons previously set out, the following three reasons have particularly influenced us in deciding, as we do, that we will not under existing circumstances adopt the rate base-rate of return method for Canadian Pacific which, within the meaning of this application, would be the sole method of determining a permissive level of rates for all railways in Canada subject to our jurisdiction:

- (1) The fundamental nature and nation-wide expanse of the railway enterprise in Canada as presently constituted do not lend themselves to an automatic translation of railway costs into rates—both freight and other rates—based on any preconceived return. This inherent factor is in contrast with the single or multi-service local monopolistic utilities, which difference has been elaborated upon previously herein.
- (2) The economic impact of freight rates is such that they should not be made the product of any automatic formula. This is particularly so where 100 per cent of the cost, or the increase in cost, is sought to be automatically applied in general rate increases to a much lesser percentage of the revenue producing business and in particular to that narrowing section of the non-competitive and non-statutory rate structure where the economic leverage and consequences are the greatest.

(3) The expression of net railway earnings as a rate of return encompasses certain component elements over which this Board has little or no direct control. Apart from the policies of government of which taxation is the most readily apparent, the component elements include the following:

- (a) fluctuations in traffic both as to volume and consist;
- (b) policies and demands of railway labour, and
- (c) policies and efficiency of railway management.

We believe it would be both unsound and unrealistic for the Board now to attempt to pre-determine for nation-wide rail transportation any net return which in the end result is only the expression of the effect of the above noted elements in conjunction with other factors when, in a composite sense, they are beyond the power of any single agency to regulate. We further believe that on psychological grounds alone it would be conducive to a weakening of the barriers, which now at least to some degree hold in check certain costs, to create any illusion of a pre-determined net return for nation-wide rail transportation. Furthermore on similar grounds, it could well be that the term "financial requirements" would carry the connotation of a more searching scrutiny of all requirements for which funds are necessitated than would the automatic acceptance of the rate base-rate of return method which has been described at times, albeit in error or at least in over simplification, as reducing the Board to mere "computers".

In summary, therefore, the Board is of the opinion that, in the long run, it would be disadvantageous to the interests of the public, the railways and investors alike to give, through the implementation at this time of the Canadian Pacific proposal, any appearance or inference of certainty of solution of a nation-wide rail transportation problem for which, under present conditions, no certainty exists.

The railway rate problems of Canada have been examined by the Governor in Council, a number of Royal Commissions, by this Board in numerous rate cases and investigations and by the Supreme Court of Canada on questions of law and jurisdiction, and at no time has any of these bodies suggested the adoption of the rate base-rate of return method as the sole method of determining a permissive level of rates. It is worthy of note that Canadian National Railways have not indicated a preference for any specific method, which fact is particularly significant in view of the magnitude of their railway operations.

While we are still discussing the rate base aspects of this application we might in passing comment upon paragraph 1 of the earlier or original application of December 1950, which reads in part as follows:

"Canadian Pacific hereby applies to the Board to establish for it a rate base representing the net investment in its railway property and to fix for Canadian Pacific a fair rate of return on such a rate base . . ."

Technically I think it could be said that the above mentioned paragraph, especially if looked at as standing by itself, contains a request that the Board establish for Canadian Pacific a rate base representing the net investment in its railway property even though we should decline to adopt the rate base-rate of return method as the sole determinant of the permissive level of rates.

Whether or not the above interpretation is given to the paragraph in question is I consider of no practical importance and I feel that any extended discussion of it is unnecessary as it would be concerned more with shadow than with substance.

In a sense the net rail investment and the rate base representing such investment might be considered by some as two aspects of the same thing. We, however, look upon the amount of the net rail investment not as a base on which railway rates are built but as one of the factors to be considered in the construction thereof. We do not, therefore, think it necessary or desirable to categorize the amount of the net rail investment (which we have found) as a rate base.

Moreover, since we have established the net rail investment of Canadian Pacific it can be used for all practical purposes and with much more confidence than previously when testing the reasonableness of Canadian Pacific's permissive net rail earnings (as ONE of the "end" tests previously mentioned) but we do not now intend to further extend its use in the fixing of rates.

It need hardly be stated that as we have declined to establish a rate base as requested in paragraph 1 of the application it follows we would decline to fix "a fair rate of return on such a rate base", i.e., at a level of not less than $6\frac{1}{2}$ per cent as requested in paragraph 16 or, for that matter, at any other percentage level.

We might further add, in passing, that at the present time there is no application before the Board for a general increase designed to yield a return of not less than $6\frac{1}{2}$ per cent on the net rail investment, neither has the Board any reason to believe that a general increase in rates sufficient to yield such a return would be justifiable or that, even if sanctioned, it would improve the financial position of the Canadian Pacific or railways in general.

* * * * *

We now deal with the conditional request for a further 9 per cent general increase in freight rates.

THE CONDITIONAL REQUEST THAT THE BOARD GRANT A FURTHER 9 PER CENT GENERAL INCREASE IN FREIGHT RATES

Our refusal to adopt the rate base-rate of return method and to establish a rate base and fix a rate of return thereon in effect disposes of the conditional request for a further general increase of 9 per cent and from 10 cents to 20 cents per ton on coal and coke contained in paragraph 9 of the application because, as finally amended, the request was for authority to make the increases "forthwith upon the establishment by the Board for the Canadian Pacific of a rate base representing the net investment in its rail property and the determination of a fair rate of return thereon as hereinafter requested". "Such establishment" and "determination" are conditions precedent to the increases mentioned in paragraph 9. The request is therefore dismissed.

* * * * *

Having determined the net investment of Canadian Pacific in its rail enterprise and having disposed of all the aspects of the application concerning a rate base we should, I think, now examine the earlier and later versions thereof in order to see what other issues, if any, remain to be dealt with.

Although not stated in so many words, I think it can be implied that paragraphs 5, 6 and 7 of the earlier application and paragraphs 14 and 16 of the later application, read together, request us in effect to make a declaratory judgment that a return, preferably of not less than $6\frac{1}{2}$ per cent, upon the net investment in its railway enterprise is fair for Canadian Pacific or, alternatively, that we find some lesser percentage as a fair rate of return for Canadian Pacific and this independently of whether or not the Board is prepared to adopt the rate base-rate of return method as the sole method of determining a permissive level of rates.

We propose in the next section of the judgment to examine the merits of such a contention and later under a separate caption we will comment on the submission concerning confiscation (paragraph 15 of the later application) which Mr. Brazier in his argument referred to as "something new in freight rate cases so far as we are concerned".

Finally, before setting out our "Summary of Conclusions" in the present case, we propose under the caption "Supplementary Observations" to touch on various matters directly or indirectly arising out of the application and which, although they do not require to be determined for the purposes thereof, are nevertheless, in our opinion, worthy of comment.

THE IMPLIED REQUEST FOR A DECLARATION BY THE BOARD AS TO A FAIR RATE OF RETURN ON THE NET RAIL INVESTMENT OF CANADIAN PACIFIC WITHOUT REGARD TO THE METHOD USED IN DETERMINING A PERMISSIVE LEVEL OF RATES

The Canadian Pacific Railway Company requested the Board to fix as fair for Canadian Pacific in respect of its railway enterprise a return of not less than $6\frac{1}{2}$ per cent upon the net investment in such railway enterprises as set out in paragraph 16 of the application. Linked to this is paragraph 17 in which Canadian Pacific presumably seeks a declaration to the effect that "it should not be precluded from earning more than the (claimed) inadequate return that such increases are now estimated to provide (a return of 5 per cent on net investment, or approximately such an amount) if, as a result of future trends in traffic and in operating costs or otherwise, a more nearly fair return may be earned." As I interpret the request it would, if granted, mean that if the return on net investment of the Canadian Pacific Railway Company rose to something in excess of 5 per cent but did not exceed $6\frac{1}{2}$ per cent, the Board would not consider an application from interested parties for a general reduction of rates on grounds that excessive earnings were accruing to the railways. It would also become a significant factor and have a material bearing upon the outcome of any subsequent general revenue case which may be launched at any time, that the previously declared earning of $6\frac{1}{2}$ per cent was not being realized.

The implications and ramifications of any such declaration by the Board would be very far reaching and before stating our conclusions on the matter I think it would be well, even if it involves a little repetition, to review a certain amount of the history available to us on this subject, both in our own country and elsewhere. The Canadian Pacific Railway Company, as stated earlier, asked the Royal Commission on Transportation to recommend that a subsection be added to Section 325 of the Railway Act to provide as follows:

"Rates shall not be deemed to be just and reasonable unless, taken as a whole, they are sufficient to provide a fair return upon the investment in the railway property of Canadian Pacific Railway Company and the Board may from time to time determine the investment in railway property upon which the return is to be calculated and the rate of such return."

The Royal Commission, for reasons set forth on Pages 63-70 in its report, declined to recommend to Parliament the enactment of the proposed amendment as quoted above. The Royal Commission gave its concluding reason for declining the amendment in the following words:

"If the proposed amendment submitted by the Canadian Pacific Railway were adopted it would tend to make the Board mere computers of a rate base and a rate of return, and calculators of the amount of increases

necessary to bring about that rate of return. The Board should not be so atrophied. The Board's duty is to consider the justness and reasonableness of rates not only as a whole, but in particular as well. Fair return on property investment may be one of the tests; it must not be either the sole or guiding test."

Dr. H. F. Angus, a member of the Royal Commission, appended to the report certain reservations and observations. He had this to say on the subject of the proposed amendment:

"While I agree with my colleagues in not recommending the amendment to Section 325 of the Railway Act proposed by the Canadian Pacific Railway, I am unable to subscribe to the reasoning in the part of the report dealing with rate base and rate of return."—"My own reasons for not recommending the proposed amendment are:

(a) The plan of recapitalization which we have recommended for the Canadian National Railways does not involve the dangers against which the proposed amendment was designed to protect the Canadian Pacific Railway. The amendment is, therefore, unnecessary.

(b) Although the Board may find it convenient to use the rate base and rate of return method of determining the revenue which the Canadian Pacific Railway should receive, I do not think that the use of this method should be imposed upon it by statute unless some of the highly controversial issues surrounding the construction of a rate base have first been settled."

While Dr. Angus appeared to express some doubts as to the reasoning propounded in the report of the Commission on the subject of rate base and rate of return, yet he was unequivocal on the question of the enactment of the proposed amendment to the Railway Act.

Turning to other jurisdictions where regulation has proceeded by application of the rate base-rate of return method and where the mechanics involved have come before the Courts for review, one of the leading cases in the Supreme Court of the United States is *Federal Power Commission vs. Hope Natural Gas Company*, colloquially referred to as "The Hope Natural Gas Case" (1944) 320 U.S. 591. It might be noted that the court was dealing with a gas company and not a railway. We were referred to this case throughout the proceedings, both in the testimony of the various experts brought before us, and in the arguments of Counsel. I do not find that the Court in that decision found for the merits of any particular method but rather held "It is the result reached, not the method employed that is controlling" and further, "It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial enquiry under the Act is at an end. The fact that the method employed to reach that result may contain infirmities is not then important" and further, that "he who would upset the rate order under the Act carries the heavy burden of making a convincing showing that it is invalid because it is unjust and unreasonable in its consequences."

My attention has been drawn to the *Colorado Interstate Case* (1945) 324 U.S. 581 which was described at that time as "the Supreme Court's most recent detailed pronouncement in this field". After reviewing the *Federal Power Commission vs. Natural Gas Pipeline Company Case* and the *Federal Power Commission vs. Hope Natural Gas Company Case*, the Supreme Court said, "We held in those cases that the Commission was not bound to the use of any single formula in determining rates, and in the *Hope Natural Gas Com-*

pany Case we sustained a rate order based on actual legitimate cost against an insistent claim that the producing properties should be given a valuation which reflected the market price of the gas. In those cases we held that the question for the Courts when a rate order is challenged is whether the order viewed in its entirety and measured by its end results meets the requirements of the Act. That is not a standard so vague and devoid of meaning as to render judicial review a perfunctory process. It is a standard of finance resting on stubborn facts."

We have also the experience of the Interstate Commerce Commission and the history of legislation of the Congress of the United States in respect of rates and rates of return to guide us. In 1920, the Transportation Act of that Country incorporated into the Interstate Commerce Act as Section 15a of which subsection (2) is as follows:

"(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: Provided, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the Country."

For the first two years after the enactment of this provision, Congress designated as the rate of return referred to therein, the quantum of $5\frac{1}{2}$ per cent but authorized the Commission to add up to $\frac{1}{2}$ of 1 per cent for capitalizable improvements or betterments.

This rule of rate making was found in practice to be impossible of attainment and it failed to provide the railways as a whole with the specified return on the fair value of their property. A tabulation of the rates of return enjoyed by the railways of the United States in the thirteen years during which this Act was in force showed that rarely, if ever, were the specified rates of return actually experienced. In 1933, section 15a was withdrawn and replaced by a section which contained no reference to a rate of return upon railway property, let alone a stipulated return.

In my view, the enunciation by this Board of any such principle as that sought in Paragraphs 16 and 17 would accomplish by another means, with added restrictive features, the very principle which the Royal Commission refused to recommend in the proposed amendment to Section 325 quoted earlier in this judgment. Indeed, it would go further, for it would not only bind us to the use of a fair return upon the investment in railway property as controlling, but it would specify the amount of the return that we deemed to be fair and reasonable. In all our reading on this subject we have failed to find in any other jurisdiction, with the possible exception of the British Columbia Public Utilities Commission, whose practice may be designed to meet special local circumstances with a particular localized industry, any Court or regulatory commission which was prepared to commit itself, in advance, as to what would constitute a fair return. Opposing testimony was submitted to the Board in the course of these proceedings on the necessity, or at least the desirability, of making a pronouncement as to a fair return.

On the one hand we have the testimony of Mr. C. W. Smith, who, at Page 102 (Vol. 911), offered his opinion as to the desirability of fixing a rate of return in the following question and answer:

"Q. Do you consider it proper practice that a rate of return should be fixed at this time—almost the same thing that was done when the $5\frac{1}{2}$ per cent rate was fixed in respect of railroads in 1920?

"A. I would not follow what was done in the 1920's by prescribing a rate, but I think you would have a very fine response of investor confidence if this Board were to find a rate base and say that up to $6\frac{1}{2}$ per cent would not be unreasonable earnings which would give the company an area in which to operate and an area in which it would have, I believe, great investor confidence."

Mr. Nixon, an investment banker, also urged upon the Board the desirability of thus establishing investor confidence. At page 6699 (Vol. 908) he had this to say:

"Q. Now, have you in your assessment of the adequacy of the requested $6\frac{1}{2}$ per cent rate of return looked into the future years?

"A. To assess the adequacy of the requested $6\frac{1}{2}$ per cent rate of return it has been considered fair and reasonable to project the conditions which might be expected to develop in future years and to give possible future conditions full weight in this appraisal of a fair and reasonable return on the net investment in the railway enterprise. If this projection were not made the indicated required rate of return would necessarily be much higher."

And, further, at Page 6772 he had this to say:

"Q. What effect would you think the granting of the right to earn a $6\frac{1}{2}$ per cent return would have on the confidence of investors?

"A. It would have a very strong influence upon the confidence of investors. The opening of the way for the Company to achieve that result would have a very beneficial psychological effect which certainly would find expression in the securities of the Company almost immediately and would continue to have a beneficial effect so long as the actual earnings improved as a consequence of the changed circumstances.

"Q. Supposing they did not. Supposing the Company priced itself out of the market. Supposing you could not realize it—what then?

"A. My lord, in that event the railway enterprise is not in a position to raise the required capital that it needs to provide the service which it is supposed to give."

Also, at Page 6779 Mr. Nixon further stated:

"A. Based on the general principles and conditions which I have set out in the course of my evidence it is my opinion as a Canadian investment banker that a $6\frac{1}{2}$ per cent rate of return on the net investment of Canadian Pacific in its railway enterprise falls short of a fair and reasonable rate of return.

"A return at the rate of around 7 per cent would, in my opinion, give a fair and reasonable return on the present investment in the enterprise, and, in due course, could reasonably be expected to attract new and additional capital to railway use, in competition with other channels

of investment available to investors, in forms which would permit the railway enterprise to maintain a capital structure best suited to its needs and to raise new equity capital without unfair dilution of the equity capital now at risk in the enterprise."

On the other hand, at Page 979 (Vol. 913) Dr. Bonbright gave his opinion on the subject in the following terms:

"Q. Now, Mr. Bonbright, will you please turn to what you have called 'Point 3' of the application—the request that the Board presently set a so-called 'fair rate of return' of not less than $6\frac{1}{2}$ per cent on net railway investment?

"A. Yes. As I have already stated earlier in my testimony, I believe that the grant of a request for the establishment of any approved or officially recognized rate of return—whether of $6\frac{1}{2}$ per cent or of any higher or lower figure—would be inappropriate at the present time.

"So far as I know, this proposal to establish a fair rate of return in a vacuum, without application to a specific rate case is almost, if not quite, without precedent in the United States public utility regulation. True, the practice was once established by Congress in the regulation of railroad rates under the Transportation Act of 1920. But the practice was soon abandoned and it has never again been reinstated."

"Q. For what reasons, aside from the absence of precedent, do you believe that the request for an official ruling on a fair rate of return is 'untimely'?

"A. In general, the objection to such a finding has the same grounds as those which have made courts reluctant to pronounce declaratory judgments. This present proceeding raises no substantive issue requiring the finding of a fair rate of return or of a fair maximum rate of return. Even the pending application of the Canadian Pacific Railway for a general increase in tolls or rates designed to yield a return of 5 per cent on net investment does not raise the question whether or not a still higher rate of return would be excessive. In the jargon of American lawyers, the issue is, therefore, moot.

"Consequently, a ruling on the issue at the present time is unnecessary. But that is not all—the making of such a ruling would impose upon the Board the responsibility of making a finding on a highly speculative, conjectural question, the answer to which would be more than likely to become obsolete by the time if ever that time should arrive when the ruling could be expected to become operative.

"I do not see how anyone can read the testimony of the two special witnesses on rate of return—Messrs. Nixon and Smith—without being impressed with the extent to which they themselves felt obliged to base their conclusions, not just on objective facts of the market-place that exist today, but rather on prophecies or even on expressed optimistic hopes as to what may be the effect on the Canadian Pacific Railway credit of an actual opportunity to earn the very enhanced rate of return which the witnesses find to be fair.

"Even without this marked element of prophecy, estimates of capital-attracting rates of return are subject to a serious margin of error, as I myself know from experience in making them. But when it comes to a contention that a return of at least $6\frac{1}{2}$ per cent in Mr. Smith's case and of at least 7 per cent in Mr. Nixon's case, is fair because it reflects what investors will think in the future or may think

in the future about Canadian Pacific after their confidence has been restored by a major boost in earning power, the whole attempt to prove the correctness of any specified rate of return seems to be getting into the dangerous realm of mere conjecture. And if an opportunity on the part of the Company to enjoy an increase in earning power should be found feasible or desirable, the actual experience of a market response to a slow and gradual increase in earning power would seem to me to be far more informing than would a present attempt to guess what rate of return on net investment would suffice if it were ever realized to stabilize stock market values at book values."

Both Mr. C. W. Smith and Mr. Nixon appeared to place great importance on the "investor confidence" that they thought would result if the Board were to grant Canadian Pacific's request for the fixing of a $6\frac{1}{2}$ per cent return on its railway investment. Mr. Nixon spoke of the "very beneficial psychological effect" that it would have. It is conceivable that investor confidence in Canadian Pacific's corporate securities might be bolstered if the request were granted but I doubt that such bolstering would result on that account unless there also existed investor confidence that increased earnings from rail enterprise would actually be realized thereby. As was agreed by Counsel for Canadian Pacific, the fixing of a rate of return is no guarantee that it will ever be earned. Mr. Nixon's qualification "so long as the actual earnings improved" points up the fact that actual earnings affect investor confidence more than does a theoretical or merely permissive goal of earnings, even if the latter were to take the form of a permissive $6\frac{1}{2}$ per cent return on net railway investment. The evidence of Messrs. Smith and Nixon, portions of which I have quoted, leaves very much in the realm of speculation and conjecture what effect on investors the granting of the request for the fixing of a $6\frac{1}{2}$ per cent return would have. I also agree with Dr. Bonbright that there is little precedent for the proposal in that respect and that its determination is not necessary to the determination of the request for a further 9 per cent general increase even if that request were not a conditional one. If it should happen that "future trends in traffic and in operating costs or otherwise" (paragraph 17 of the application) will justify an increase in rates to the $6\frac{1}{2}$ per cent return level proposed by Canadian Pacific, it will be more appropriate to deal with such conditions when they are closer to reality than they now appear to be. I believe that Canadian Pacific enjoys a substantial measure of investor confidence but desirable as the bolstering of such confidence may be I am not convinced that granting Canadian Pacific's request would have that effect or that that is the way to achieve it.

In fact, as I read the argument of Counsel of the Canadian Pacific I can hardly conclude that they, themselves, were in reality urging upon the Board to meet in literal terms the request contained in paragraphs 16 and 17 of the application. I refer to page 2399 (Vol. 916) wherein Counsel for the Canadian Pacific had this to say:

"In order to allay any possible qualms or fears that respondents may have in this respect, we respectfully suggest that this Board in the judgment which it will render on this application should state that the return which it is now fixing as fair is not one which is intended to remain forever, nor is it intended to be a guarantee that such a return will be earned either now or at any time in the future."

One might ask if the requested rate of return of $6\frac{1}{2}$ per cent is not to obtain now, because the present application calls for such an earning as will produce approximately 5 per cent, when then will it obtain, and what is the immediate useful purpose it would serve?

It may be urged by inference that if the Board declines, as it does, to make a declaratory judgment that 6½ per cent on Canadian Pacific's net rail investment is a fair return for Canadian Pacific we might nevertheless now find as fair some lesser percentage. I do not think that there is any obligation on the Board to fix a rate of return on the net investment of Canadian Pacific in its railway property. The Interstate Commerce Commission operates under legislation that is different in many respects to our Railway Act but it is nevertheless significant that the Commission does not fix as fair a rate of return on rail investment. I am not aware that the Courts have held that the Commission has thereby failed to do its duty. The net rail investment of Canadian Pacific and the return that all rates yield to Canadian Pacific are relevant factors which the Board may and does take into consideration in carrying out its duty to fix just and reasonable rates, but unless it is impossible for the Board to fix just and reasonable rates without fixing a rate of return on Canadian Pacific's rail investment there is neither necessity nor obligation to fix such rate of return. I do not think that there is such impossibility.

Factors such as the cost of raising capital or the cost of money, as it is called in the financial world, and the need for new capital are variables which change with the times, and other changing conditions which affect rate-making have occurred in the last twelve months the effect and extent of which the record in the present case does not disclose and which we will refer to more fully in our notes on confiscation.

I consider, therefore, that even if the Board were disposed to declare what constitutes a return on the net rail investment of Canadian Pacific which would be fair to all parties concerned, it should not attempt to do so in a vacuum but only if and when a specific application for an increase (or decrease) in tolls and rates is before the Board and is supported by the required timely and pertinent evidence. I might add that, without repeating them, other reasons which we have given as to the inappropriateness for the Board to make a declaratory judgment that a 6½ per cent return is fair for Canadian Pacific they also apply to any lesser percentage which might be sought by way of a declaratory judgment and for the foregoing reasons we consider that we should decline to do so.

COMMENTS ON SUBMISSION IN RESPECT OF CONFISCATION

Paragraph 15 of the application reads as follows:

"Canadian Pacific submits that if it is precluded from establishing its tolls or rates at such a level as will enable it to earn a fair return upon the net investment in its railway enterprise, its tolls or rates would be less than would be just and reasonable and would be confiscatory."

It is clear from the context of the foregoing submission that its merits could only be effectively dealt with after the amount of the net investment had been determined.

If the application called for a determination whether or not presently authorized rates are unjust, unreasonable and confiscatory it would be essential to the determination of such issue to have relevant, up-to-date evidence of the financial status of the railways and other conditions and circumstances affecting rates.

During the early days of the hearing, it seemed obvious that a year or more might elapse before the Board could receive and fully consider the extensive report of its specially appointed Financial Adviser dealing with the

segregation of rail and non-rail assets of Canadian Pacific and the time-consuming examination of accounts necessary in connection with a determination of the company's net investment in its rail enterprise.

I considered that it was futile for the applicants to ask for an increase in rates which was in any way dependent on evidence which it would take about a year to establish. Neither did I think it appropriate for the applicants to expect the Board to accept for the purposes of adjudging a request for a general increase in rates, financial statements and other evidence of then existing conditions and circumstances when it was practically a foregone conclusion that such evidence would be out-dated by the time the Board was in a position to consider it.

It was for these reasons that I suggested to Counsel for Canadian Pacific that they might usefully eliminate paragraph 9 of their application which then asked for an unconditional general increase in rates and tolls, and that they might content themselves with reserving their rights to ask for such relief, pending the outcome of their request to have the Board determine the net investment of Canadian Pacific in its rail enterprise. Events have proven that my misgivings in connection with the above referred to time lapse have been confirmed.

The applicants although they did not remove paragraph 9, did amend it by inserting the qualification "forthwith upon the establishment by the Board for the Canadian Pacific of a rate base representing the net investment in its rail property and the determination of a fair rate of return thereon as hereinafter required.

The foregoing observations regarding the necessity of having up-to-date evidence before the Board is particularly relevant with respect to the allegation of confiscation because in regard thereto such evidence is admittedly of paramount importance. I might appropriately quote the answer which Mr. Evans gave to a question asked by me as appears at page 11376 (Vol. 934) of the transcript:

"The Chief Commissioner: Well, Mr. Evans, is there any distinction to be made between the norms of determination of what is just and reasonable and what is confiscatory?

"Mr. Evans: There is nothing precise; it is a matter of evidence largely."

Stale or outmoded evidence is not enough.

It is pertinent here to repeat that the application as a whole was filed on July 14, 1952, and was heard in various stages and at various times and was in part disposed of in our Judgments dated October 24, 1952, and March 6, 1953, and that the greater part of the evidence particularly that of Canadian Pacific in respect of the matters not disposed of in these two Judgments was heard in November 1952 and cross-examination and evidence in reply and evidence of the respondents were heard in January 1953.

Since that evidence was heard the railways have acted on the authorization for a general 7 per cent increase given in our said Judgment dated March 6th, 1953, and they have also acted on our Order dated October 9th, 1953, in the Equalization proceedings which directed 5 per cent reductions in class rates within Western Canada and authorized at the discretion of the railways increases of not more than 10 per cent in class rates within the territory east of Port Arthur and Armstrong to and including Levis, Diamond and Boundary. Other rate changes have also been made.

The record in the present case does not disclose what the overall effect of those changes has been nor their effect on the revenue position of the railways nor the extent to which authorized increases have been effectively translated into increased rates under which traffic freely moves. Furthermore, it should not be assumed that conditions now are substantially the same as those concerning which the evidence was given and, on the other hand, from our own studies, though we do not look upon them as conclusive, we have good reason to believe that conditions have radically changed since evidence was presented to us a year ago.

Any method used in determining the level of general rate increases loses importance unless there is reasonable assurance that such increases would be realizable and beneficial to the applicant and at the same time be fair to the public. Moreover, I could not then see that it would serve any practical purposes to attempt to test any norm of rate-making based on a rate of return until the required net rail investment had been determined.

In view of the foregoing and the conditional nature of the request for a further 9 per cent increase and the disposition we are making of that request, I do not consider that any further comment on the subject of confiscation, which is only in the form of a submission, is required.

SUPPLEMENTARY OBSERVATIONS

Relevancy of certain factors in determining a permissive level of rates and the Board's duty with respect thereto

Mr. Sinclair, of Counsel for Canadian Pacific, urged that restriction of markets and "what the traffic will bear" are not relevant factors in a general rate case. He also stated that in a general rate case the railway's revenues are the paramount consideration and he contended that even if the Board were convinced that an increase in rates, necessary in order to give a fair return to the railways, would result in diminishing traffic, the Board should nevertheless give the railways the opportunity to put the rates into effect and then, if it were found that traffic did not move under such rates, the Board could then take some action. In answer to a question by Commissioner Matthews whether in a general rate case the Board is not authorized to give consideration to the broad basic economic question of the ability of the country to stand a general rate change, Mr. Sinclair replied that, unlike in the United States, economic planning has not been given to regulatory tribunals in Canada with respect to railways. Inferentially, at least, his answer to the question was in the negative.

These arguments were vigorously contested by Counsel for the provinces and I am inclined to agree with them that, without being economic planners or attempting to substitute our judgment for that of the company in the management field, our duty to be just to both the railways and the public imposes on us more far-reaching obligations than were indicated by Counsel for Canadian Pacific in their arguments immediately above referred to.

Unique Character of Canadian Rate-making Problems

The problems of railway rate regulation in Canada probably have been given fuller and more concentrated consideration in this case than was possible in any case previously presented to the Board. By proposing a new method for the determination of just and reasonable rates the Canadian Pacific has afforded an opportunity to look into the efficacy and scope of methods or formulae

in rate-making, and has emphasized what are called some inherent weaknesses of the requirements method heretofore adopted by the Board. Even though the rate base-rate of return method as suggested has not proved acceptable it has resulted in a thought provoking review of the entire problem.

In dealing with Canadian general rate applications this Board has been faced with a situation which more than one non-Canadian rate expert has described as unique in the history of railway regulation. The preponderance of all railroad activities in this country is carried out through the medium of two railway systems, each with its special needs—the Canadian National Railway System, publicly owned and motivated to a degree in its construction and operation by questions of public policy, and with public policy being likewise concerned in our other great railway, the Canadian Pacific Railway Company, which from its very inception was set up as a fully integrated private enterprise, sponsored and aided by the Federal and other Governments, and which according to the views expressed in the 1951 Report of the Royal Commission on Transportation should be maintained as a private enterprise. These conditions render the devising of a method of determining uniform rates to meet the particular requirements of each interest an extremely complex matter.

Under the above circumstances it would be surprising indeed if the requirements method of determining just and reasonable rates despite the benefit of some years of trial and error did not leave room for improvement or modification especially in times of rapidly changing conditions.

Canadian Pacific Modernization Program

Mr. O'Brien, in the course of argument laid stress on the large sums of moneys which have been "plowed back" in the rail enterprise of Canadian Pacific over recent years. This has prompted us to enquire on more than one occasion why this additional investment, particularly insofar as it applies to dieselization, does not on the face of it reflect greater savings and consequently additional earnings. Counsel for Manitoba, Mr. Shepard, during the hearings in this connection made the following observation (P. 2516 Vol. 916):

"The Respondents have been cross-examining C.P.R. officials at every hearing since the first post World War II rate case, with a view to finding out when economies through dieselization and other technological advances are expected to be reflected in the operating results of the railways. The answers to these questions have been in general terms and to date no demonstrable savings have occurred or have been made apparent to us. We are therefore in the position of being somewhat suspicious of the line of reasoning which says in effect: 'Please give us higher rates to increase our earning capacity, so that we can reduce our rates'."

Dieselization on the Canadian Pacific has so far been restricted to approximately 24 per cent of the potential based on gross ton miles operated. Nevertheless, as a result of our continuing analyses of the figures we are satisfied that to the extent dieselization has been carried out, it has shown some overall net returns. Inherent in the situation, however, is the impact of substantially increased costs for labour and materials which impact has tended in considerable part to consume the benefits from the dieselization aspect of the modernization program to the extent that it has been so far carried out. Thus, the specific benefits to date, accruing jointly to the company and the shipping public, have been obscured.

Although we are satisfied that Canadian Pacific (profiting by the experience of dieselization in the United States) is restricting so far as possible during a transition period the disadvantages of a mixture of steam and diesel operation,

nevertheless, so long as such a condition remains, there is some wholly unavoidable duplication of costs. As one instance, passing and terminal tracks and other facilities suitable for steam locomotives are in many instances inadequate for diesel locomotives with their additional power and capacity to carry longer trains and heavier loads. Pre-operating extensions to such passing and terminal tracks and pre-operating modernization of other dieselization facilities are types of expenditure which cannot be expected per se to show full immediate returns.

According to Mr. Crump, vice-president of the Canadian Pacific Railway Company, the latter proposes to expend on capital account about \$95,000,000 annually for a 5-year period on road property and equipment, including 72 diesel units per annum at an annual cost of approximately \$14,000,000 and numerous other capital items involved in the modernization plans.

Mr. Crump has also indicated that Canadian Pacific has bought its last steam locomotive but the full benefits of dieselization will not be realized until the company's contemplated program is much further advanced. As previously stated, the present dieselization of Canadian Pacific does not exceed approximately 24 per cent of the potential based on gross ton miles operated.

It is public knowledge that dieselization has been a notable factor in improving the financial position of railways in the United States. A quotation from a recent report of the statistical bureau of the Interstate Commerce Commission indicates the extent of dieselization in that country as follows:—

“In 1952, 65·22 per cent of the freight gross ton-miles, 71·50 per cent of the passenger-train car-miles, and 76·72 per cent of the yard switching hours were produced by diesel locomotives. For the month of April 1953 the corresponding percentages were: freight 74·1, passenger 77·9, and yard 82·3.”

In attempting to compare the benefits which American railroads have derived from dieselization with those which may be expected in Canada, it should be noted that the capital cost of diesel locomotives is higher in Canada than in the United States and also that on a unit for unit basis the capital cost of diesel locomotives is greater than that of steam locomotives. This high initial cost for diesel power means that, inter alia carrying charges for interest and depreciation are also high and that such charges go on continuously whether the locomotive is used or not. They are being earned only when the locomotive is performing productive work. It follows, therefore, that the greater the number of ton miles it hauls and the greater the number of locomotive hours it operates per day the less the carrying charges for interest and depreciation are per ton mile hauled and per locomotive operated.

Furthermore, in making comparisons between Canadian and United States railways, one must always bear in mind the ever important factor of the disparity in traffic density which now prevails between the two countries. In the United States there is a greater overall density of traffic and, in particular, branch line operations are less extensive than in Canada. In our own country Canadian Pacific branch lines constitute about 50 per cent of the whole of its lines and Canadian National Railways are called upon to operate lines where traffic is comparatively light to even a greater extent.

Unless and until the traffic density factor is more nearly in balance and dieselization units are less costly in Canada, it may not be altogether the part of wisdom for the Canadian railways to implement dieselization within the compass of time or to the extent that it has been carried out in the United States. Meanwhile, due to these disparities in the conditions existing between the two countries, it would be over optimism to assume that the benefits to be derived from step-wise dieselization by Canadian railways would be on a parity in the foreseeable future with those already achieved in the United States.

Reference to Board's Judgment of March 6th, 1953.

In our judgment of March 6th, 1953, in which we granted a 7 per cent further increase in freight rates, we said that the Board had become increasingly concerned as to the long-term ability of the Canadian economy to continue indefinitely to bear successive increases in freight rates on the scale of the then recent past and we made further reference to the appearances of an approaching danger of the railways being priced out of the transportation market and likewise the equal danger of labour pricing itself out of railway employment. We also stated that we were making a study of the impact of general freight rate increases on all types of traffic and that we would review our findings in the present case.

Government statistics show that Canadian "gross national product" increased in 1952 and also such statistics currently indicate a further increase for the year 1953. On the other hand, while not on a wholly comparable basis the overall volume of freight tonnage in 1952 was practically the same as in 1951. More significant, however, than the halt in the trend of total tonnage carried in 1952 was the shift in the type of traffic handled; there being registered a decline in the carriage of high class goods with increases being shown in the low grade and less remunerative traffic. The rail data for 1953 as available to date indicates for the first time in several years a decline in overall volume and a further decline from 1952 in the carriage of high class goods.

As a result of these recent rail traffic trends, we are now more strongly than ever of the opinion that the long succession of general freight rate increases, mainly due to added costs of labour which is the largest single factor and to increased costs of materials, has brought about a loss of traffic by the railways to competing modes of transport not only of traffic which the railways formerly regarded as vulnerable because it was highly competitive, but a loss as well of traffic which was formerly non-competitive but which has now become subject to competition by reason of the aforementioned long succession of rate increases. Thus the law of diminishing returns is now, in the inexorable economic sense, beginning to assert itself. We are convinced therefore that, unless the several underlying conditions adversely affecting the railway industry in general changes markedly for the better, means other than general rate increases imposed on the basis of the past will have to be found in the future if the railways of Canada are to be maintained in a healthy operating position.

One of the most obvious and immediate means of meeting a downward trend in traffic is to effect savings in operating costs. As we have seen, both of our major railways through a modernization program, and particularly by dieselization, are seeking to effect savings in operating costs. Because of declining rail traffic volume, the railways are also making on a unit basis expenditure reductions in certain segments of the current maintenance program, but to the extent that such unit basis curtailment only amounts to deferment it may not be looked upon otherwise than with misgiving.

Means such as above described whereby operating costs are reduced have, it is true, their short term drawbacks from the economic point of view of labour because, to a certain extent, it inevitably affects employment. Nevertheless, during a period of nation-wide rail traffic decline, anything which super-imposes uneconomic operating costs upon the railways can hardly be expected to do otherwise than lead to a more serious and enduring dislocation in industry and, consequently, to a more serious and enduring curtailment of rail employment.

Canadians at large have a vital stake in our railways. They, we think, reasonably could expect both railway management and labour in their own mutual long term self-interest, as well as in the interest of the public, to col-

laborate in taking a new and economically realistic view of the deterioration which has taken place in the traffic position of Canadian railways since the Board's Judgment of March last. This is so, particularly since such deterioration cannot be accounted for by any contraction for the year 1953 in Canadian production generally but is, we believe, attributable mainly to the increasing pervasiveness of competing modes of transport.

The latest available estimates of 1953 "Net Railway Operating Income" (i.e. after depreciation, taxes and the net rentals pertaining to equipment and joint facilities but before providing for financing costs) as furnished by the two major railways tentatively indicate that Canadian Pacific will show a minor decline from 1952 whereas Canadian National (due partly to differing traffic and operating conditions) will show a more pronounced decline. Such estimates of course reflect, on the one hand, the 7 per cent general freight rate increase authorized by the Board to be effective from March 16th, 1953 and, on the other, the impact of increased wage rates and unit costs of materials over 1952 as referred to in our Judgment of March 6th last. Further, in any realistic assessment of the comparative operating results between the two years, it particularly should be borne in mind (a) that the aforementioned unit basis curtailment of the maintenance programs to whatever extent it was applied in 1953 is reflected in the results, and (b) that, conversely, large sums have been expended on capital account during 1953 from both external and internal financing sources without the relative costs of such financing being reflected, at this point, as a charge against the "Net Railway Operating Income" as previously defined. To put it another way, "Net Railway Operating Income" may be defined as being the "net rail income available for interest, dividends, and internal investment in additional road and equipment facilities."

With further reference to the 1952-53 earnings, it should be borne in mind that both the 1952 adjusted actual and 1953 adjusted estimated earnings of Canadian Pacific, as the "yardstick" company, fall considerably short of attaining the permissive level of \$46,644,000 established by the Board in the March 6th and immediately preceding judgments.

While fully recognizing the present and potential seriousness of the recent downward trend in overall rail traffic volume and of the change in the consist thereof, the Board at the same time is fully aware that if Canadian Pacific is to remain a private enterprise, as visualized in repeated pronouncements of Parliament and in successive Royal Commission reports, there is need to maintain its financial integrity so that it may be able to continue to attract new capital at an economic cost in the field of open market competition. We have in mind here future Canadian Pacific financing at the most economic cost both to the company and the users of its rail services as distinguished from Canadian National financing which, in the main, has behind it the pledged credit of Canada.

Utility of Formulae and Methods in Rate-Making

It is important that hearings before the Board and its own deliberations should be as expeditious as possible and no doubt formulae or methods for determining just and reasonable rates can be useful for the above purposes and efforts to improve them should we think be encouraged and continued. It may well be, however, that it is impossible to devise any plan of balanced rate-making which will automatically determine a level of rates which could be said to be just and reasonable to all the conflicting interests which are inevitably involved in any general rate increase case. Such matters as permissible earnings and return on net investment however arrived at are one thing but rate

determination involves other factors which we feel required to give consideration to, and in the last analysis, unless and until our statutory duties are more specifically defined, it may transpire that rate-making will remain the art of exercising judgment taking into account all factors and circumstances which the Board may reasonably consider relevant to what is just and reasonable to all concerned.

Need of Railway Regulation

It was interesting to note that during the hearing two rate experts called by the Respondents, Messrs. Bonright and Williams, were of the opinion that maximum regulation of railway rates is no longer necessary in the United States because of competition. It is also thought in some quarters in Canada that conditions of traffic competition are rapidly becoming sufficiently intense and uniform in this country to ensure that the shippers' interests will be automatically protected against freight rates which would bear too heavily upon them or for other reasons might be considered unjust or unreasonable. Under such circumstances maximum rates or the height of any regulatory ceiling would cease to be of very great importance because if it were too high competition would never allow it to be reached and shippers would have nothing to fear.

As and when conditions in the United States such as have been described to us should actually prevail in Canada, it might indicate a competitive situation which would not prove financially profitable for the Canadian railways. Nevertheless, they might possibly welcome it but at least in one respect not more so than would the Board because in such event the burden of the many difficult rate regulatory functions which we feel at present bound to discharge, would be thereby greatly lessened.

SUMMARY OF CONCLUSIONS

The "Index to Judgment" sets forth the page number references to the Findings of the Board in respect of EACH related matter dealt with throughout the Judgment on this application. We now summarize our PRINCIPAL findings, as of the present time and under existing conditions, as follows:—

(1) The request that the Board determine the net investment in the rail enterprise of the Canadian Pacific Railway Company is granted. For the purposes of the present application the amount of the net rail investment adopted by the Board—for use as ONE of the "end" tests in considering the reasonableness of a permissive level of rates—is \$1,140,214,801 as at December 31st, 1951.

(2) The Board considers that it would not be justified in establishing the net rail investment thus found as a rate base within the meaning of this application.

(3) The Board declines to accept the rate base-rate of return method proposed by the Canadian Pacific Railway Company which, within the meaning of this application, would be the sole method of determining a permissive level of rates.

(4) It follows that the Board declines to make a declaration that a return of not less than $6\frac{1}{2}$ per cent is a fair return on the suggested rate base representing the net investment of the Canadian Pacific Railway Company in its rail enterprise.

(5) The application for a further 9 per cent general increase in freight rates, which it is said would provide the Canadian Pacific Railway Company with a return of approximately 5 per cent on its net rail investment, is dismissed.

(6) The Board, independently of its decision not to adopt the rate base-rate of return method, also dismisses any implied request for a further declaration that a return either of $6\frac{1}{2}$ per cent (in (4) above) or some lesser percentage on its net rail investment, would be a fair return for the Canadian Pacific Railway Company. In doing so, the Board does not consider a fair return for Canadian Pacific on such net rail investment, desirable as it may be, is or should be the sole criterion to be considered in the determination of a permissive level of rates.

The Board considers that under present legislation it is at liberty to make use of the Canadian Pacific's rail operations as a yardstick for rate making purposes to such extent as future conditions may justify but it is not bound to continue to do so.

With respect to the determination of any future applications for alteration of any specific rates or the general level of rates, the Board, bearing in mind that we are living in times when rapid changes in conditions are liable to occur, wishes to leave itself free to adopt in whole or in part any existing or proposed formulae or any modification or combination of such formulae for such purposes and to such extent as it may consider appropriate under the circumstances and/or to employ any other criterion of justness and reasonableness in fixing the general or any specific level of rates which it may deem warranted.

JOHN D. KEARNEY.

I concur:

HUGH WARDROPE.

I concur:

O. A. MATTHEWS.

February 15, 1954.

The Board of

Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

March 1, 1954

No. 23

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

ORDER No. 83149

In the matter of the application of Northwest Steamships Limited for a licence under Section 10 of the Transport Act:

File No. 42076·2

MONDAY, the 15th day of February, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed—

It is ordered that Licence Number C.T.C. (W.T.) 281 be issued to Northwest Steamships Limited for the period of one year commencing on the 15th day of January, 1954, licensing the following ships:

Vessel Name	Official Registry No.	Gross Tonnage
A. A. Hudson	148089	2,222
Superior	154471	1,774

to transport goods by water between all ports or places in Canada, on Lakes Ontario, Erie, Huron (including Georgian Bay), and Superior, and their connecting waters, including the St. Lawrence River and its tributaries as far seaward as the west end of the Island of Orleans.

HUGH WARDROPE,
Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 83022 Jan. 27—Application of the Canadian Freight Association for approval of an Agreed Charge between certain Railways and certain firms on pipe, tubing, etc., carloads from Montreal, Que., and Welland, Ont., to New Westminster, Vancouver and Victoria, B.C.
- 83023 Jan. 27—Authorizing the C.N.R. to operate the bridge over the Boyne River, at mileage 60.6 Carman Subdivision, Manitoba.
- 83024 Jan. 27—Authorizing the C.N.R. to operate the bridge over Boyne River, at mileage 61.1 Carman Subdivision, Manitoba.
- 83025 Jan. 27—Authorizing the C.N.R. to operate the bridge at mileage 40.6 Central Butte Subdivision, Saskatchewan.
- 83026 Jan. 27—Approving under the Maritime Freight Rates Act tolls published in supplements to tariffs filed by the Canada and Gulf Terminal Railway Company under section 8.
- 83027 Jan. 27—Approving proposed location of storage tank, etc., of Rayner Construction Limited, near the C.N.R. tracks at Humphrey, N.B.
- 83028 Jan. 27—Permitting the removal of slow order at C.P.R. crossing west of station at Finch, Ontario.
- 83029 Jan. 27—Permitting the removal of slow order at C.P.R. crossing of Pine Beach Street, Dorval, P.Q.
- 83030 Jan. 27—Authorizing the Town of Wapella, Sask. to construct 5th Avenue across the C.P.R. at mileage 102.31 Broadview Subdivision.
- 83031 Jan. 28—Requiring the C.P.R. to install protection at the crossing of Montee de l'Enseigne, in the Village of La Perade, P.Q.
- 83032 Jan. 28—Approving supplement to Service Station Contract, between The Bell Telephone Company of Canada and The Purbrook and Fraserburg Telephone Company, Limited.
- 83033 Jan. 28—Approving supplement to Traffic Agreement between The Bell Telephone Company of Canada, and The Commissioners for the Telephone System of the Municipality of the Township of Waterloo.
- 83034 Jan. 28—Authorizing the C.N.R. to operate the bridge at mileage 126.4 Albreda Subdivision, British Columbia.
- 83035 Jan. 28—In the matter of the application of the City of Granby, P.Q., for an Order authorizing the installation of protection at C.N.R. crossing of St. Charles Street, Granby, P.Q.
- 83036 Jan. 28—In the matter of application of the Campbell Soup Company Limited; Matthews-Wells Company Limited; and Saxonia Fruit Preserving Company Limited for an agreed charge.
- 83037 Jan. 28—Authorizing the C.P.R. to construct the proposed alterations and additions to its wharf located within a portion of Vancouver Harbour, Burrard Inlet, British Columbia.
- 83038 Jan. 28—Permitting the removal of slow order at New York Central Railroad crossing and Ontario Road, Welland, Ontario.
- 83039 Jan. 28—Restricting the speed of trains over the C.N.R. crossing and Caribou Street and Fourth Avenue, in the City of Moose Jaw, Saskatchewan.
- 83040 Jan. 29—In the matter of an Agreement between certain Telegraph Companies in Canada.
- 83041 Jan. 29—In the matter of Interim Order No. S2811, and the application of the C.N.R. requesting that the said Interim Order be rescinded.
- 83042 Feb. 1—Permitting the removal of slow order at the Montreal and Southern Counties Railway Company crossing of Robinson Street west of Granby West Station, in the City of Granby, P.Q.
- 83043 Feb. 1—Permitting the removal of slow order at C.N.R. crossing of Decoude Highway west of Hervey Junction, P.Q.
- 83044 Feb. 1—In the matter of application of the Trans Mountain Oil Pipe Line Company, for permission to occupy and use for pipe line purposes, certain lands of the C.N.R.
- 83045 Feb. 1—Approving supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Chapleau Telephone System Limited.
- 83046 Feb. 1—Approving supplement to Traffic Agreement between The Bell Telephone Company of Canada, and The Commissioners for the Telephone System of the Municipality of the Township of Bruce.
- 83047 Feb. 1—Approving supplement to Traffic Agreement between the Bell Telephone Company of Canada and the McKillop, Logan and Hibbert Telephone Company Limited.
- 83048 Feb. 1—Approving supplement to Traffic Agreement between The Bell Telephone Company of Canada and The Goderich Rural Telephone Company Limited.
- 83049 Feb. 1—Approving supplement to Service Station Contract between The Bell Telephone Company of Canada and The Oxford Telephone Company Limited.

- 83050 Feb. 1—Approving supplement to Traffic Agreement between The Bell Telephone Company of Canada, and The Commissioners for the Telephone System of the Municipality of the Township of Wellesley.
- 83051 Feb. 1—Approving proposed location of storage tank, etc., of H. B. Mitchell Limited, near the C.P.R. tracks at Wolfville, Nova Scotia.
- 83052 Feb. 1—Authorizing the C.N.R. to make signal changes to the interlocking at the crossing of their railway and the C.P.R. at Mimico, Ontario.
- 83053 Feb. 2—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near C.P.R. tracks at Fort Macleod, Alberta.
- 83054 Feb. 2—Permitting the removal of slow order at C.N.R. crossing at mileage 51·8 Endiang Subdivision.
- 83055 Feb. 2—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near C.P.R. tracks at Rosthern, Saskatchewan.
- 83056 Feb. 2—In the matter of the application of the C.N.R. for approval of revised plan showing the reconstruction of the bridge over the Sturgeon River, Ontario, at mileage 44·4 Kinghorn Subdivision.
- 83057 Feb. 2—Restricting the speed of the Esquimalt and Nanaimo Railway Company's trains at crossing of Esquimalt Road, Victoria, B.C.
- 83058 Feb. 2—Approving revised Appendix to Traffic Agreement between The Bell Telephone Company of Canada and Martintown Telephone System.
- 83059 Feb. 2—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited, near C.P.R. tracks at Mont Laurier, P.Q.
- 83060 Feb. 2—Approving proposed location of storage tank, etc., of C.N.R., near their tracks at Cochrane, Ontario.
- 83061 Feb. 2—Approving proposed location of storage tank, etc., of Dominion Natural Gas Company near the tracks of The Chesapeake and Ohio Railway Company at Rodney, Ontario.
- 83062 Feb. 2—Authorizing the issuance of a licence to the Yankcanuck Steamships Limited, to transport iron and steel products, etc., by water.
- 83063 Feb. 2—Authorizing the Rural Municipality of Prince Albert, Saskatchewan, to construct a road across the C.N.R. at mileage 158·38 Tisdale Subdivision.
- 83064 Feb. 2—Approving the resolution of The British Yukon Navigation Company Limited, authorizing certain officials to prepare and issue tariffs.
- 83065 Feb. 2—Authorizing the C.N.R. to operate the bridge at mileage 81·5 Glenavon Subdivision.
- 83066 Feb. 2—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.P.R. tracks at Alix, Alberta.
- 83067 Feb. 2—Approving the resolution of The British Yukon Railway Company, authorizing certain officials to prepare and issue tariffs.
- 83068 Feb. 3—Authorizing the Corporation of the District of Mission, B.C., to construct Glasgow Street across the C.P.R. in the City of Mission, B.C.
- 83069 Feb. 3—Authorizing the C.P.R. to discontinue passenger service between Winnipeg and Arborg, Manitoba.
- 83070 Feb. 3—Permitting the removal of slow order at C.P.R. crossing near McGaw, Ontario, at mileage 107·48 Goderich Subdivision.
- 83071 Feb. 3—Permitting the removal of slow order at C.N.R. crossing west of station at Arran, Sask., at mileage 26·42 Preeceville Subdivision.
- 83072 Feb. 3—Approving proposed location of storage tanks, etc., of Shell Oil Company of Canada Limited, near C.N.R. tracks at Edmonton, Alberta.
- 83073 Feb. 3—Permitting the removal of slow order at C.N.R. crossing west of the station at Listowel, Ont., mileage 26·40 Newton Subdivision.
- 83074 Feb. 3—Approving proposed location of storage tank, etc., of the Landis Co-Operative Association Limited near the C.N.R. tracks at Landis, Sask.
- 83075 Feb. 3—Authorizing the C.N.R. to make signal changes at the interlocking across the Michigan Central Railway at Clifton Junction, Ontario.
- 83076 Feb. 3—Permitting the removal of slow order at the crossing of the Northern Alberta Railways Co., near Donnelly, Alberta.
- 83077 Feb. 3—Approving under the Maritime Freight Rates Act, tolls published in supplement to Tariff filed by the C.N.R. under sections 3 and 8.
- 83078 Feb. 3—Approving proposed location of storage tank, etc., owned by Mr. Charles E. Massicotte, near C.N.R. tracks at Val d'Or, Quebec.
- 83079 Feb. 3—Requiring the C.N.R. to install protection at the crossing of Old Belleville Road, west of the station at Napanee, Ontario.
- 83080 Feb. 3—In the matter of apportionment of the cost of protection at C.N.R. crossing and Davenport Road, in the City of Toronto, Ontario.
- 83081 Feb. 3—Authorizing the C.N.R. to use the bridge at mileage 131·6 Fort Frances Subdivision, Ontario.
- 83082 Feb. 3—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.

- 83083 Feb. 3—Approving under the Maritime Freight Rates Act tolls published in supplements to Tariff filed by the Dominion Atlantic Railway Company under section 8.
- 83084 Feb. 3—Authorizing the Bell Telephone Company of Canada to construct lines of telephone along certain public highways in the Corporation of the Township of Harwich, in the County of Kent, Ontario.
- 83085 Feb. 3—Authorizing The Bell Telephone Company of Canada to construct lines of telephone along certain public highways in the Corporation of the Township of Harwich, in the County of Kent, Ontario.
- 83086 Feb. 3—Requiring the C.N.R. to install protection at the crossing west of the station at South Durham, P.Q.
- 83087 Feb. 4—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the C.P.R. under section 8.
- 83088 Feb. 4—In the matter of application of the C.N.R. for a grant from the Railway Grade Crossing Fund toward the cost of proposed improvement in the operating circuits and in protection at the crossing of Highway No. 94, Callander, Ontario.
- 83089 Feb. 4—Restricting the speed of trains at C.P.R. crossing and 22nd Street, Saskatoon, Saskatchewan.
- 83090 Feb. 4—Permitting the removal of slow order at C.N.R. crossing of Melvin Avenue, Sudbury, Ontario.
- 83091 Feb. 4—Permitting the removal of slow order at the C.N.R. crossing of Clarkson Road, Clarkson, Ontario.



BOARD OF TRANSPORT COMMISSIONERS FOR CANADA

JUDGMENT AND ORDER

EQUALIZATION CLASS RATE SCALE

Judgment of Chief Commissioner, Mr. Justice John D. Kearney, concurred in by
Deputy Chief Commissioner Mr. Armand Sylvestre, Q.C., and Mr. Commissioner
Frank M. MacPherson.....Pages 1 to 4

Order No. 83242, dated March 1, 1954.....Page 6

MARCH 1, 1954

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1954.

The Board of Transport Commissioners for Canada

Judgments, Orders, Regulations and Rulings

Vol. XLIII

Ottawa, March 1, 1954

No. 23A

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the general freight rates investigation directed by Order in Council P.C. 1487, dated April 7, 1948, (Equalization Case).

File No. 45464

Before:

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

JUDGMENT

KEARNEY, J., Chief Commissioner:

In our Judgment herein dated December 12, 1952, (XLII, J.O.R. & R., No. 18A) hereinafter sometimes referred to as the "former Judgment", and Order No. 80410 of the same date, we ordered railway companies subject to our jurisdiction to publish and file tariffs effective on January 1, 1954, (subsequently amended to January 1, 1955 by Order No. 82339, dated October 9, 1953), to give effect to the rate changes required by that Judgment, including the establishment of the Class Rate Scale, Appendix A to that Judgment, for application as set forth therein.

That scale was not intended as a final scale but was a provisional or tentative scale subject to objection before it would become effective, and we stated in the Judgment that we intended to hold regional hearings to afford parties an opportunity to show cause why the scale should not be established and to present evidence and make representations in respect of it, and if it should appear to us that for any reason the scale was not a proper one we would take appropriate action.

The Appendix A scale was related generally to a weighted average of the current class rates in effect at the time Order No. 80410 was issued, following which the entire level of class rates was advanced by 9 per cent on January 1, 1953, and by a further 7 per cent on March 16, 1953, by authority of the Board, having regard to increased cost of railway operation through wage increases and advances in the cost of material and supplies.

We subsequently held regional hearings at the following places and dates:

	1953
Victoria, B.C.....	March 17
Vancouver, B.C.....	March 19 and 20
Calgary, Alta.....	March 26
Edmonton, Alta.....	March 30 and 31
Regina, Sask.....	April 10 and 13
Winnipeg, Man.....	April 15 and 16
Port Arthur, Ont.....	April 20
Windsor, Ont.....	June 8
London, Ont.....	June 10
Toronto, Ont.....	June 15
Halifax, N.S.....	July 2 and 3
St. John's, Nfld.....	July 8
Charlottetown, P.E.I.....	July 14
Montreal, Que.....	September 14 and 15

and further hearings at Ottawa, Ont., as follows:

October 5th to 8th, 1953, inclusive; November 30th and
December 1st, 1953; January 8th to 14th, 1954, inclusive,

and received evidence and submissions on behalf of numerous parties in respect of the scale and other matters dealt with by the Judgment, and received two class rate scales submitted respectively by the Canadian National Railways and Canadian Pacific Railway Company and a third class rate scale submitted by the Province of Alberta. Thus at the close of the hearings the Board had its own interim class rate scale and three other class rate scales for consideration.

It was computed by the Railways that the Board's interim scale would produce a deficiency in class rate revenue (apart from the general increases above referred to) of 8.2 per cent on Canadian Pacific class rate traffic, and 9.2 per cent on Canadian National class rate traffic. This deficiency was said to be partly due to the revenue results of the Board's scale upon certain traffic to and from Western Canada, originating at or destined to the United States, which (because it was international traffic) had been omitted from the original waybill studies, and which traffic is carried at local Canadian rates to and from the boundary. The two proposed railway scales were designed, *inter alia*, to ameliorate the deficiency.

Having regard to the evidence and submissions and our own further studies and investigations, we have decided to modify and supplement our former Judgment and the class rate scale, Appendix A thereto.

The Railways indicated that considerable time and work on their part is necessary to implement any new class rate scale, and as at least some undesirable delay in getting that work under way would result if we were to delay our further directions herein until we are able to issue notes on the hearings and reasons for such directions, we have consequently decided to issue now the directions, and modifications of the former Judgment hereinafter set forth, and give notes and reasons therefor in writing at a later date.

The subsequent notes and reasons for Judgment will form the basis for our first report to the Governor in Council with respect to the progress of the Board in complying with the directions of Order in Council No. P.C. 1487, which report it is anticipated will be accompanied by a recommendation for amendment of section 332 of the Railway Act, based upon our experience in adjusting the present freight rate structure of class rates to the national freight rates policy of equalization now embodied in the Railway Act.

This Judgment is supplemental to the former Judgment but shall prevail over any portions of the former Judgment that are inconsistent with this Judgment, and any reference under the headings "Application of the Scale", "East-West Rates" and "Differentials" in the former Judgment to class rates authorized or specified therein shall be construed to mean class rates authorized or specified in the former Judgment as modified or supplemented by this Judgment.

The following references are to the pages of the former Judgment, Vol. XLII, J.O.R. & R., No. 18A.

PART I—CLASS RATE SCALE

Page 4:

The Class Rate Scale as set forth in Appendix B hereto is substituted for the former Appendix A scale.

Page 5:

Substitute the following for the third paragraph:

In regard to class rate traffic between other parts of Canada and the territory east of Levis, Diamond and Boundary, the scale of rates to be applied in combination with the Maritime arbitraries added to the Montreal rates, will be the Appendix B Class Rate Scale, as modified herein under the heading "Specific or Group Rates", subject to the 20 per cent reduction in the Maritime haul on westbound traffic.

Substitute the following for the sixth paragraph:

The rate changes required by the former Judgment, as modified or supplemented by this Judgment, shall be made effective not later than March 1, 1955.

Specific or Group Rates

Page 9:

Substitute the following for the first paragraph:

The rates in Appendix B are to be applied in accordance with the mileage blocks specified therein, except as modified below.

In the case of eastern territory designated as groups A and B in Canadian Freight Association Tariff No. 4-F, C.T.C. No. 1164, the Board finds that it is not reasonably possible to apply the mileage blocks specified in Appendix B for the making of rates between groups A and B and points Port Arthur, Armstrong, Ont., and west thereof, and such groups shall, therefore, be modified to the following extent: the city of Toronto is hereby designated as the key point for the computation of all-rail class rates for groups A and B; the grouping of points Port Arthur, Armstrong, Ont., and west thereof shall be fixed in accordance with the through distance of the mileage blocks specified in Appendix B from Toronto to such points (subject to the next succeeding paragraph respecting Vancouver Island); and the rates between the key point of Toronto and the groups so computed in western Canada shall be applied in accordance with the rates specified in Appendix B; but in no case shall the mileage scale of rates be exceeded between points north of Toronto either in groups A and B or in other groups of the said tariff, and points Port Arthur, Armstrong and west thereof wherever a lower rate is made by the application of the scale prescribed in Appendix B.

In computing the mileages for the said rates between points on Vancouver Island and all other points in Canada, the distance over the water routes between the mainland and Vancouver Island shall be made on the basis of two miles of water haul being deemed equivalent to one mile of rail haul.

Constructive Mileages

Page 9:

Substitute the following:

We consider that the basing of class rates on so-called "constructive mileages", or estimated or fictitious mileages (other than average group mileages or "key point" mileages specified herein) is not in accordance with the principles of equalization and it is not our intention that it be permitted once the Class Rate Scale comes into effect.

Description of Uniform Scale

Pages 9, 10 & 11:

Substitute the following:

The revised scale, Appendix B, is computed as follows:

<i>Distance, Miles</i>		<i>Mileage Block</i>	<i>Rate Per 100 Lbs.</i>
Minimum—20		20 miles	50¢
			<i>Rate Per 100 Lbs.</i>
			<i>Per 100 Miles</i>
Over	20 to 60	5 miles	\$1.00
"	60 to 100	10 "	50¢
"	100 to 200	25 "	40¢
"	200 to 1,500	25 "	36¢
"	1,500 to 2,000	50 "	36¢
"	2,000 to 2,600	50 "	32¢
"	2,600 to 3,300	50 "	28¢

The requirement for different scales on less than carload traffic versus carload traffic, for distances up to 35 miles, is deleted.

Relationship of the lower classes to the first class (or class 100) rates

Page 11:

The percentage relationship of the present Class 7 to the prescribed Class 100 is modified so that it will be 33 per cent instead of 32½ per cent; this provision will also apply to the rating on cattle, calves, sheep and hogs.

The relationship of the present Class 10 to the prescribed Class 100 is modified so that it will be 27 per cent instead of 27½ per cent.

JOHN D. KEARNEY.

OTTAWA, March 1, 1954.

I concur:

A. SYLVESTRE.

FRANK M. MACPHERSON.

EQUALIZATION CASE—PART I

APPENDIX B

(Supersedes Appendix A)

Uniform Scale of Mileage Class Rates in cents per 100 lbs. for Class 100 for application between points in Canada (Levis, Que., Diamond, Que., Boundary, Que., and west thereof), in accordance with the provisions of Section 336 of the Railway Act and the requirements of the Judgment dated December 12, 1952, as amended by the Judgment dated March 1, 1954.

<i>Miles</i>	<i>Rate</i>	<i>Miles</i>	<i>Rate</i>	<i>Miles</i>	<i>Rate</i>
20	50	700	330	1,700	690
25	55	725	339	1,750	708
30	60	750	348	1,800	726
35	65	775	357	1,850	744
40	70	800	366	1,900	762
45	75	825	375	1,950	780
50	80	850	384	2,000	798
55	85	875	393	2,050	814
60	90	900	402	2,100	830
70	95	925	411	2,150	846
80	100	950	420	2,200	862
90	105	975	429	2,250	878
100	110	1,000	438	2,300	894
125	120	1,025	447	2,350	910
150	130	1,050	456	2,400	926
175	140	1,075	465	2,450	942
200	150	1,100	474	2,500	958
225	159	1,125	483	2,550	974
250	168	1,150	492	2,600	990
275	177	1,175	501	2,650	1,004
300	186	1,200	510	2,700	1,018
325	195	1,225	519	2,750	1,032
350	204	1,250	528	2,800	1,046
375	213	1,275	537	2,850	1,060
400	222	1,300	546	2,900	1,074
425	231	1,325	555	2,950	1,088
450	240	1,350	564	3,000	1,102
475	249	1,375	573	3,050	1,116
500	258	1,400	582	3,100	1,130
525	267	1,425	591	3,150	1,144
550	276	1,450	600	3,200	1,158
575	285	1,475	609	3,250	1,172
600	294	1,500	618	3,300	1,186
625	303	1,550	636		
650	312	1,600	654		
675	321	1,650	672		

ORDER No. 83242

In the matter of the general freight rates investigation directed by Order in Council P.C. 1487, dated April 7, 1948 (Equalization Case):

MONDAY, the 1st day of March, A.D. 1954.

File No. 45464

Hon. Mr. Justice JOHN D. KEARNEY, *Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

It is ordered that railway companies subject to the jurisdiction of the Board shall publish and file tariffs effective not later than March 1, 1955, giving effect to the rate changes required by the Judgment herein dated December 12, 1952, as modified or supplemented by the Judgment herein dated March 1, 1954.

It is further ordered that Order No. 80410, dated December 12, 1952, and paragraph 7 of Order No. 82339, dated October 9, 1953, be and they are hereby rescinded.

JOHN D. KEARNEY,
Chief Commissioner.



Transport Commissioners for Canada

Judgments, Orders, Regulations, and Rulings

Vol. XLIII

Ottawa, March 15, 1954

No. 24

This publication is issued fortnightly, on the 1st and 15th of each month. Annual subscription, \$3.00; single numbers, 20 cents; in quantities, 25 per cent discount. Remittances should be made to the Queen's Printer, Ottawa, by postal money order, express order or accepted cheque. The use of currency for this purpose is contrary to the advice of the postal authorities and entails a measure of risk. Postage stamps, foreign money or uncertified cheques will not be accepted. No extra charge is made for postage on documents forwarded to points in Canada and in the United States, but cost of postage is added to the selling price when documents are mailed to other countries. Early application should be made for copies in quantities. Subscriptions should be sent, in every case, to the Queen's Printer, Ottawa.

In the matter of the application of the Toronto and York Roads Commission for an Order directing the replacement of the existing C.N.R. and C.P.R. bridges on the old Weston Road Highway (Rogers Road) in the Township of York;

And in the matter of the apportionment of the cost of the said replacement.

File No. 29215

Before:

HUGH WARDROPE, *Assistant Chief Commissioner.*

ARMAND SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

HOWARD B. CHASE, C.B.E., *Commissioner.*

Appearances:

G. W. MASON, Q.C., and J. D. LUCAS, Q.C., for the Toronto and York Roads Commission.

C. FRANK MOORE, Q.C., for the Municipality of Metropolitan Toronto.

I. S. FAIRTY, Q.C., for the Toronto Transportation Commission.

K. D. M. SPENCE, for the Canadian Pacific Railway Company.

J. W. G. MACDOUGALL and MAIN DUNCAN, for the Canadian National Railways.

F. A. BURGESS, for the Bell Telephone Company of Canada.

JUDGMENT

CHASE, Commissioner:

This application was made by the Toronto and York Roads Commission but at the outset it should be noted that during the Hearing held in Toronto on November 18, 1953, Mr. C. F. Moore, Q.C., appeared for the Municipality of Metropolitan Toronto and at page 12144 of the transcript stated in part:

"On January 1st, it is anticipated that the Metropolitan Corporation will take over Rogers Road and if it takes over Rogers Road I presume

costs follow that we will be responsible for, if an Order were made, for whatever financial obligations there are in connection with it. But I have been instructed to appear before this Board and to support the application of my friend in connection with the bridges on Rogers Road and having no evidence I have nothing further to say, sir".

And at page 12145, the following questions and answers appear:

"Mr. Mason: Are you taking in Weston Road, too?

Mr. Moore: Yes, taking in Weston Road too, sir.

Mr. Mason: That is not old Weston Road, which this is, but Weston Road.

Mr. Moore: Where it joins."

Having regard to the statements made by Mr. Moore, the Board understands that as of January 1, 1954, the Municipality of Metropolitan Toronto will take over the responsibilities of the Toronto and York Roads Commission as relating to Rogers Road and will assume that portion of the costs which would otherwise be assessed against the Toronto and York Roads Commission. An Order following this Judgment will so direct.

Description of Rogers Road and the Bridges

From the Board's files and evidence adduced during the Hearing, what is now known as Rogers Road was formerly referred to as the old Weston Road. In the early days it appears to have been an Indian trail or, as one witness put it, "in the early times this was sort of a trespass road or trail" but it has since developed into a main artery running from the northwest into the City of Toronto. It pre-dates the construction of the Canadian National and Canadian Pacific Railways.

With respect to the bridges, there are two of them, one over a single track line of the Canadian National Railways, and the other over a single track line of the Canadian Pacific Railway. When first built, these bridges were about 17 feet wide and in all probability when first built they were the full width of the highway. They were re-constructed in the year 1919-1920 to width of approximately 20 feet plus a 5-foot sidewalk on one side only. The Canadian National bridge is of steel construction and was built to a H-20 loading. The Canadian Pacific bridge is of timber construction and has a sign on it restricting loads passing over the bridge to 12 tons. The approaches to both bridges are said to be in excess of 7 per cent and neither of them afford standard clearance vertically from the rail. Between the two bridges there is a strip of land about 40 feet in width. It is estimated that the Canadian National bridge has a life expectancy of about 30 years while that of the Canadian Pacific has a life expectancy of about 10 years.

The highway has been widened some distance back from the bridges on each side and it is the desire of the highway authority to have one reinforced concrete bridge of H-20 loading spanning both railways, including the aforementioned strip of land, with a 48-foot roadway and two 6-foot sidewalks. The railways desire that provision be made for two additional tracks under the new bridge for both Canadian National and Canadian Pacific, with standard vertical clearance, namely 22 feet, 6 inches.

A witness for the Applicants estimated the cost of the bridge structure to be \$305,000, provided that clearances over the tracks could be restricted during construction. Included in the item of \$305,000, provision was made for the construction of a retaining wall which it was estimated would cost \$20,000, and a temporary pedestrian crossing estimated at \$7,000. In addition, there would be certain costs for land damage, the changing of some power lines, widening and grading the approaches and raising the loop tracks, which are used by the Toronto Transportation Commission, a short distance from the bridge.

The Railways also submitted estimates relating to re-building separate bridges in kind and also having a 48-foot roadway plus two 6-foot sidewalks.

The C.N.R. estimated that to re-construct its bridge in kind with provision for two tracks would cost \$40,000.

For a creosoted timber bridge with a 48-foot roadway plus two 6-foot sidewalks with provision for three tracks the estimated cost was between \$65,000 and \$70,000. The Canadian Pacific Railway Company's estimated cost for reconstructing the bridge in kind with allowance for one track is \$28,000 and with allowance for three tracks, \$33,000; for re-building a timber bridge with a 48-foot roadway plus two 5-foot sidewalks with H-20 loading \$77,000; and for building a separate bridge to span three tracks constructed to the Applicant's design, \$170,000.

The present bridges were constructed and re-constructed solely at the expense of the Canadian National and Canadian Pacific Railways. At the time when the railways excavated and cut away portions of the highway it was the duty of each of them to supply the means whereby highway traffic could be accommodated but as will appear later the responsibilities of the railways have lessened to a considerable degree during the intervening years.

From the evidence, it appears that the original bridges, said to be 17 feet in width without any sidewalks, were ample to take care of the highway traffic of those days. In 1919 and 1920, when re-constructed to a width of approximately 20 feet plus one 5-foot sidewalk it would, I think, be reasonable to assume that those changes were made necessary to accommodate the increased highway traffic.

From a physical standpoint, these bridges are still capable of carrying the traffic they were built to carry; one is said to have a life expectancy of 30 years, the other 10 years. The question therefore arises: Why is it necessary at this time to build one bridge wider and stronger than the present bridges with two 6-foot sidewalks instead of one 5-foot sidewalk. The answer is obvious. There is only one reason, namely, to expedite the movement of highway traffic.

A traffic count taken for the twenty-four hour period, November 11, 1953, showed the following as passing over the bridge:

Automobiles	9,820
Trucks	2,554
Buses	2
Motorcycles	36
Bicycles	117
Pedestrians	3,328

(See Exhibit 7-A)

There remains for consideration the apportionment of costs. Each of the parties, the Toronto and York Roads Commission, the Canadian National Railways and the Canadian Pacific Railway Company, admit having some responsibility and agree that some share of the costs should be assessed against them. They differ only in the quantum.

Counsel for the applicants and for the railways referred the Board to a number of decisions previously rendered by the Board, and after taking all of those decisions into account I am of the opinion that the nearest parallel is that of Hamilton vs. T.H. & B. Railway, which is reported in C.R.C. No. 69, at page 300.

In that case we said *inter alia*, "The costs should be distributed in accordance with the relative benefits which would accrue to the City and to the railways after taking into account the responsibilities of both parties". The same principles, I think, should be applied in the instant case.

On that reasoning I find as follows:

The Applicants have clearly proven the necessity for a new, wider and more substantial bridge and the application should be granted. They have also proven that the necessity stems from the enormous increase in vehicular and pedestrian traffic on Rogers Road and as they will receive the greater benefit, it follows they should bear the greater share of the costs.

The railways will benefit in a lesser degree. They will have a bridge with an estimated life of seventy-five years with provision made for three tracks for each railway instead of one track each as at present. However, consideration must be given to the equity they each had in the existing bridges. As previously stated, the C.N. bridge is estimated to have a life expectancy of thirty years. The C.P.R. bridge of ten years, the equity of the C.N. being of more potential value than that of the C.P.R.

After careful consideration of the relative benefits accruing and the responsibilities of the Applicants and of the railways I think it would be fair to assess the costs as follows:

The costs pertaining to the retaining wall, the temporary pedestrian crossing, the land damage, the widening and grading of the approaches, the changing of the power lines and the raising of the Toronto Transportation Commission's loop are costs which, in my opinion, do not concern the railways. Therefore, these items will be considered as relating only to the highway authority.

The railways to contribute a total amount of \$100,000. The C.N.R. having the greater equity in its existing bridge, its share should be \$47,500. The C.P.R. having the lesser equity in its existing bridge, its share should be \$52,500. The balance of the costs to be paid by the Applicants or their successors, namely, the Metropolitan Corporation of Toronto.

The maintenance costs of the bridge structure to be borne 40 per cent by the Applicants, 30 per cent by the Canadian National and 30 per cent by the Canadian Pacific; the Applicants to maintain the wearing surfaces of the bridge and the sidewalks.

The bridge is to be constructed of reinforced concrete to a H-20 loading with a 48-foot roadway plus a 6-foot sidewalk on each side thereof, the spans to be such as to permit the construction of two additional tracks thereunder for each railway. The bridge to be standard clearance from the rail, namely, 22 feet 6 inches.

As it was indicated in the evidence that the present grade approaches exceed the standard of 5 per cent and as it might be desirable to reduce the costs somewhat by having approaches in excess of 5 per cent and as Subsection 1 of Section 269 of the Railway Act gives the Board authority to approve of grades in excess of 5 per cent, the Applicants will be permitted to build the approaches in excess of 5 per cent if they so desire.

As to the cost of removing the power lines and raising the loop of the Toronto Transportation Commission, as these are outside the railway right-of-way, costs relating thereto should be settled as between the Applicants and the utility companies.

As the Board understands that a saving of \$30,000 might be effected provided less than standard clearance vertically could be maintained during the construction of the bridges, such restricted clearance as may be necessary is hereby approved upon the understanding that the railways will, during the period of construction, instruct their employees not to ride on the tops or sides of engines or cars.

OTTAWA, December 28, 1953.

H. B. CHASE.

I concur:

HUGH WARDROPE.

I concur:

A. SYLVESTRE.

ORDER No. 83012

In the matter of the application of the Toronto and York Roads Commission, hereinafter called the "Applicants", for an Order directing the replacement of the existing Canadian National Railways' and Canadian Pacific Railway Company's bridges on the old Weston Road Highway (Rogers Road) in the Township of York, Province of Ontario;

And in the matter of the apportionment of the cost of the said replacement:

File No. 29215

TUESDAY, the 26th day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon hearing the matter at a sittings of the Board held in Toronto, on November 18, 1953, in the presence of Counsel for the Toronto and York Roads Commission, the Municipality of Metropolitan Toronto, the Toronto Transportation Commission, the Canadian Pacific Railway Company, the Canadian National Railways and The Bell Telephone Company of Canada—

It is ordered

1. That the Canadian National Railways and the Canadian Pacific Railway Company be, and they are hereby, directed to construct and maintain an overhead bridge across the right-of-ways of the two railways on the old Weston Road Highway (Rogers Road), in the Township of York, Province of Ontario, as shown on Plan D 1569-102, dated September 21, 1953, on file with the Board under file No. 29215.

2. That the said overhead bridge be constructed in accordance with the provisions of General Order No. 589; detailed plans of the said overhead bridge to be submitted for the approval of an Engineer of the Board.

3. That, subject to the condition that the Canadian National Railways and the Canadian Pacific Railway Company undertake to keep their employees off the tops and sides of engines and cars while operating past the restricted clearance and subject to the condition that signs indicating less than standard clearance be erected and subject to and upon the due performance of the said undertaking of the Canadian National Railways and the Canadian Pacific Railway Company, such restricted clearances as may be necessary during construction of the said overhead bridge is hereby, approved and authorized.

4. That the cost of construction of the overhead bridge hereby authorized be borne and paid as follows: \$47,500.00 by the Canadian National Railways, \$52,500.00 by the Canadian Pacific Railway Company and the balance of the cost of construction to be borne and paid by the Applicants, or their successors, namely, the Municipality of Metropolitan Toronto.

The costs of maintenance of the said overhead bridge structure to be borne and paid forty per cent by the Applicants, or their successors, namely, the Municipality of Metropolitan Toronto, thirty per cent by the Canadian National Railways and thirty per cent by the Canadian Pacific Railway Company; the Applicants, or their successors, namely, the Municipality of Metropolitan Toronto, to maintain the wearing surfaces of the bridges and sidewalks.

HUGH WARDROPE,

Assistant Chief Commissioner.

GENERAL ORDER No. 792

In the matter of the application of The Board of Trade of the City of Toronto, the Canadian Industrial Traffic League, Inc., the Canadian Manufacturers' Association, Inc., and the Hamilton Chamber of Commerce for approval of a short form of straight bill of lading for optional alternative use to the form of straight bill of lading approved by General Order No. 41, dated July 15, 1909, as amended by General Order No. 788 dated July 24, 1953:

File No. 3678-84

FRIDAY, the 22nd day of January, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

H. B. CHASE, C.B.E., *Commissioner.*

Upon reading the submissions filed and in pursuance of the powers conferred by section 353 of the Railway Act and of all other powers possessed by the Board in this behalf—

It is ordered

1. That approval be, and it is hereby, given to the Short Form of Straight Bill of Lading on file with the Board under file No. 3678-84 and marked "A", embodying the terms and conditions under which any traffic may be carried as set out in paragraph numbered 2 hereof, and to any Short Form of Straight Bill of Lading which embodies the said terms and conditions and is substantially in accordance with the said form "A", for use by railway companies subject to the jurisdiction of the Board as an alternative form of straight bill of lading to that approved by General Order No. 41.

2. "Received, subject to the classifications and tariffs in effect on the date of issue of this Original Bill of Lading

at from
(Station) (Date)

the goods described below, in apparent good order, except as noted (contents and conditions of contents of packages unknown), marked, consigned and destined as indicated below, which said carrier agrees to carry to its usual place of delivery at said destination if served by it, otherwise to deliver to another carrier on the route to said destination.

"It is mutually agreed, as to each carrier of said goods and as to each party at any time interested therein, that the carriage thereof is subject to all the terms, conditions and limitations (which are hereby incorporated by reference in this short form bill of lading and have the same force and effect as if the same were severally, fully and specifically set forth herein),

1. of the form of Straight Bill of Lading approved by the Board of Transport Commissioners for Canada by General Order No. 41 dated July 15th, 1909, and set forth in the Canadian Freight Classification in effect on date hereof when said goods are carried under a contract of carriage issued by a rail carrier."

3. That the said Short Form shall at all times bear an inscription reading: "Approved by the Board of Transport Commissioners for Canada by General Order No. 792 for optional alternative use by railway companies subject to its jurisdiction."

4. That any or all of the terms and conditions set out in paragraph numbered 2 may be placed on the face or on the reverse side of the forms of bill of lading hereby approved, but when they are placed on the reverse side the face of the form shall contain, in prominent type, the inscription:

“subject to all the terms, conditions and limitations incorporated by reference as shown on the back of this bill.”

5. That the said Short Form marked “A” be set forth in full in the Canadian Freight Classification not later than February 28, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83200

In the matter of the application of the Canadian Freight Association, dated January 11, 1954, under the provisions of the Transport Act, for approval of an agreed charge and for withdrawal of the Board's approval of Agreed Charge C.T.C. (AC) No. 9, dated June 7, 1940:

File No. 40994·9

FRIDAY, the 19th day of February, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MacPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered

1. That the agreed charge dated January 11, 1954, between Canadian National Railways, Canadian Pacific Railway Company, Canadian Pacific Express Company and Central Alberta Dairy Pool, applying on butter and cheese specified in paragraph B thereof, from stations and/or places specified in paragraph C(1) to stations and/or plans specified in paragraph C(2) thereof, on file with the Board under file No. 40994·9, be, and it is hereby, approved; and that the date as from which the said agreed charge shall be deemed to have become operative is hereby fixed as the 12th day of January, 1954.

2. That the Board's approval of Agreed Charge C.T.C. (AC) No. 9, dated June 7, 1940, be, and it is hereby, withdrawn as from January 12, 1954.

HUGH WARDROPE,
Assistant Chief Commissioner.

ORDER No. 83205

In the matter of the application of the Canadian National Railways, under section 339 of the Railway Act, for approval of proposed Supplement No. 2 to Canadian National Railways' Tariff C.T.C. (Q.R.L. & P.) No. 175:

File No. 36984

FRIDAY, the 19th day of February, A.D. 1954.

HUGH WARDROPE, *Asst. Chief Commissioner.*

A. SYLVESTRE, Q.C., *Deputy Chief Commissioner.*

F. M. MACPHERSON, *Commissioner.*

Upon reading the submissions filed—

It is ordered that the said Supplement No. 2 to Canadian National Railways' (formerly The Quebec Railway, Light & Power Company) Standard Passenger Tariff C.T.C. No. 175, be, and it is hereby, approved, and shall be published in at least two consecutive weekly issues of the Canada Gazette preceded by the following notice:

"The undermentioned Supplement No. 2 to Canadian National Railways' (formerly The Quebec Railway, Light & Power Company) Standard Passenger Tariff C.T.C. No. 175 has been filed for the approval of the Board of Transport Commissioners for Canada, and has been approved by Order of the Board No. 83205, dated February 19th, 1954, and is hereby published as required by section 339 of the Railway Act."

HUGH WARDROPE,

Assistant Chief Commissioner.

SUMMARY OF ORDERS ISSUED BY THE BOARD

- 83092 Feb. 4—Authorizing The Bell Telephone Company to construct its lines of telephone along certain highways in the Township of Chatham, County of Kent, Ontario.
- 83093 Feb. 4—Authorizing The Bell Telephone Company to construct its lines of telephone along certain highways in the Township of Chatham, County of Kent, Ontario.
- 83094 Feb. 4—Authorizing The Bell Telephone Company to construct its lines of telephone along certain highways in the Township of Chatham, County of Kent, Ontario.
- 83095 Feb. 4—Approving the operation of the C.N.R. and C.P.R. trains over the siding of the Toronto Harbour Commissioners serving the Associated Quarries & Construction Limited, Toronto, Ontario.
- 83096 Feb. 4—Authorizing the Toronto Harbour Commissioners to construct a siding to serve the Brewers' Warehousing Company Limited, near Keating and Leslie Streets, Toronto, Ontario.
- 83097 Feb. 4—Permitting the removal of slow order at The Algoma Central and Hudson Bay Railway Company crossing of Peoples Road, Sault Ste. Marie, Ontario.
- 83098 Feb. 5—Permitting the removal of slow order at C.P.R. crossing, west of the station at Ste. Therese, Quebec.
- 83099 Feb. 5—In the matter of the application of Colonial Steamships, Limited, for a licence under section 10 of the Transport Act.
- 83100 Feb. 5—Approving the operation of the C.N.R. trains across the Quebec-St. Raymond Highway, near Val Rose, Quebec.
- 83101 Feb. 5—Requiring the C.P.R. to install protection at crossing of Agues Street, Megantic, Quebec.
- 83102 Feb. 5—Authorizing the Village of Port Dover, to construct St. George Street across The Lake Erie and Northern Railway Company's right of way, Port Dover, Ontario.
- 83103 Feb. 5—Approving proposed location of storage tanks, etc., of the Square Deal Co-Operative Association Limited, near the C.P.R. tracks at Reston, Man.
- 83104 Feb. 5—Authorizing the C.N.R. to construct its spur track to serve the Ontario Food Terminal, near Humber River, Ontario.
- 83105 Feb. 5—Approving proposed location of storage tanks, etc., of Imperial Oil Limited, near the C.N.R. tracks at Lynn Lake, Manitoba.
- 83106 Feb. 5—In the matter of the application of Canadian Collieries (Dunsmuir), Limited, for an Order rescinding Orders No. 23187, dated January 18, 1915, and No. 24421, dated November 5, 1915, relating to its interchange track with the Esquimalt and Nanaimo Railway at Royston, British Columbia.
- 83107 Feb. 5—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8.
- 83108 Feb. 8—Approving proposed location of storage tanks, of Imperial Oil Limited, near the C.P.R. tracks at Thorsby, Alberta.
- 83109 Feb. 8—Authorizing the C.N.R. to install certain protection at the temporary crossing of their railway and Moberley Avenue, Toronto, Ontario.
- 83110 Feb. 8—Approving under the Maritime Freight Rates Act tolls published in tariffs filed by the Canadian Freight Association under sections 3 and 8.
- 83111 Feb. 8—Permitting the removal of slow order at C.P.R. crossing, west of the station at Yorkton, Saskatchewan.
- 83112 Feb. 8—Approving proposed location of storage tanks, etc., of McColl-Frontenac Oil Company Limited, near the C.N.R. tracks at Prescott, Ontario.
- 83113 Feb. 8—Permitting the removal of slow order at Galoway Road crossing and the C.N.R., at mileage 320.95 Oshawa Subdivision, Ontario.
- 83114 Feb. 8—Approving proposed location of storage tank, etc., of Irving Oil Company Limited, near the C.N.R. tracks at Woodside, Nova Scotia.
- 83115 Feb. 8—Approving Appendix to Traffic Agreement between the Bell Telephone Company and La Corporation de Téléphone de Québec.
- 83116 Feb. 8—Approving proposed location of storage tanks, etc., of the Trinidad Leaseholds (Canada) Limited, near the C.N.R. tracks at Stratford, Ontario.
- 83117 Feb. 8—Authorizing the C.P.R. to construct a private siding across Borden Avenue, Kitchener, Ontario, to serve General Spring Products Limited.
- 83118 Feb. 8—Relieving the C.P.R. from erecting fencing between certain mileages on its North Bay Subdivision, Ontario.
- 83119 Feb. 9—Approving location of shelter proposed to be erected by the C.N.R. at Hammond River, New Brunswick.
- 83120 Feb. 9—Authorizing the Alberta Department of Highways to widen the highway where it crosses the C.P.R. at mileage 20.4 Langdon Subdivision, Alberta.
- 83121 Feb. 9—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Dominion Atlantic Railway Company under section 8.

- 83122 Feb. 9—Requiring the C.N.R. to install protection at crossing of Canby Street, Port Robinson, Ontario.
- 83123 Feb. 10—Authorizing the C.P.R. to operate under the overhead bridge constructed under Order No. 79808, dated September 23, 1952, at mileage 1·79 Princeton Subdivision, British Columbia.
- 83124 Feb. 10—Authorizing the Ontario Department of Highways to construct Highway No. 401 across the C.N.R. by means of an overhead bridge in the Township of Thurlow, County of Hastings, Ontario.
- 83125 Feb. 10—Approving under the Maritime Freight Rates Act tolls published in certain tariffs filed by the C.N.R. under section 3.
- 83126 Feb. 10—Relieving the C.P.R. from erecting cattle guards at certain crossings of its railway at mileages 36·45 and 39·9 on its Okanagan Subdivision, British Columbia.
- 83127 Feb. 10—Permitting the removal of slow order at C.N.R. crossing of Selby Road, west of the station at Napanee, Ontario.
- 83128 Feb. 10—Authorizing the C.N.R. to operate the bridge over the Ouiatchouan River, at mileage 6·4 Roberval Subdivision, Quebec.
- 83129 Feb. 10—Authorizing the C.P.R. to operate under the overhead bridge, at mileage 2·89 Red Deer Subdivision, Alberta.
- 83130 Feb. 10—In the matter of the application of the C.P.R. for approval of Plan showing the automatic protection as installed at the crossing of its railway and Oak Street, Weston, Ontario.
- 83131 Feb. 10—Authorizing the Ontario Department of Highways to construct an overhead bridge over the C.N.R., at mileage 40·8 Algonquin Subdivision, Ontario.
- 83132 Feb. 11—In the matter of the application of the Canadian Freight Association for approval of limitation of liability in respect of proposed proportional commodity rates on Cellulose Acetate, carloads, from Armstrong, Fort William and Port Arthur, Ontario, to points in the United States of America.
- 83133 Feb. 11—Permitting the removal of slow order at C.N.R. crossing of Caradoc Street, Strathroy, Ontario.
- 83134 Feb. 11—Permitting the removal of slow order at C.P.R. crossing of 63rd Avenue, Edmonton, Alberta.
- 83135 Feb. 11—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Hinton, Alberta.
- 83136 Feb. 11—Authorizing the C.N.R. to close the highway crossing at mileage 39·7 Amiens Subdivision, Saskatchewan.
- 83137 Feb. 11—Authorizing the C.P.R. to relocate its main line of railway in the City of Lancaster, New Brunswick.
- 83138 Feb. 11—Approving under the Maritime Freight Rates Act tolls published in Supplement to Tariff filed by the Canadian Freight Association under sections 3 and 8.
- 83139 Feb. 12—Permitting the removal of slow order at C.N.R. crossing of Pitt Street, at Florence, Nova Scotia.
- 83140 Feb. 12—Approving proposed location of storage tank, etc., of Sturdie Propane Limited, near the C.P.R. tracks at Calgary, Alberta.
- 83141 Feb. 12—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Delburne, Alberta.
- 83142 Feb. 12—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Arran, Saskatchewan.
- 83143 Feb. 12—Permitting the removal of slow order at C.P.R. crossing, north of the station at Balmoral, Manitoba.
- 83144 Feb. 15—Approving proposed location of storage tanks, etc., of North Star Oil Limited, near the C.N.R. tracks at Atikokan, Ontario.
- 83145 Feb. 15—Authorizing the C.N.R. to construct a spur track to serve E. Long Limited across Queen Street in the Town of Orillia, Ontario.
- 83146 Feb. 15—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Ste. Anne, Manitoba.
- 83147 Feb. 15—Approving proposed location of storage tank, etc., of Imperial Oil Limited near the C.P.R. tracks at Empress, Alberta.
- 83148 Feb. 15—Approving proposed location of storage tank, etc., of Imperial Oil Limited, near the C.N.R. tracks at Edson, Alberta.
- 83149 Feb. 15—In the matter of the application of Northwest Steamships Limited for a licence under section 10 of the Transport Act.
- 83150 Feb. 16—Approving overhead clearance of building located on the siding serving the Stamped and Enamelled Ware Limited at Hespeler, Ontario. (C.P.R.).
- 83151 Feb. 16—Approving Traffic Agreement between The Bell Telephone Company and The Molesworth Independent Telephone Company Limited.
- 83152 Feb. 16—Permitting the removal of slow order at C.N.R. crossing west of the station at Memramcook, New Brunswick.
- 83153 Feb. 16—Approving proposed location of storage tanks, etc., of The British American Oil Company Limited, near the C.N.R. tracks at Hudson Bay, Saskatchewan.

- 83154 Feb. 16—Permitting the removal of slow order at C.N.R. crossing south of the siding at Enfin, Saskatchewan.
- 83155 Feb. 16—Approving proposed location of storage tank, etc., of the Chrysler Corporation of Canada Limited, near the Chesapeake & Ohio Railway Company tracks, at Windsor, Ontario.
- 83156 Feb. 16—Permitting the removal of slow order at C.N.R. crossing of Highway No. 71, at Crozier, Ontario.
- 83157 Feb. 16—Permitting the removal of slow order at C.N.R. crossing of 52nd Avenue, north of the junction switch with the C.P.R., Red Deer, Alberta.
- 83158 Feb. 16—Permitting the removal of slow order at N.Y.C. crossing of Church Street, north of the bridge in the Town of Chateauguay, P.Q.
- 83159 Feb. 17—In the matter of the application of the C.N.R. for an Order authorizing them to close Brigus, Newfoundland, as an agency station.
- 83160 Feb. 17—Authorizing the C.P.R. to operate the bridge over Sharbot Lake Narrows, Ontario, at mileage 57-28 Kingston Subdivision, Ontario.
- 83161 Feb. 17—Approving proposed location of storage tank of Imperial Oil Limited, near the C.N.R. tracks at Islay, Alberta.
- 83162 Feb. 17—Approving proposed location of pipe lines, etc., of Imperial Oil Limited, near the C.N.R. tracks, at Sydney, Nova Scotia.
- 83163 Feb. 17—Authorizing the N.Y.C. to remove the station building at Usan, Ontario.
- 83164 Feb. 17—Permitting the removal of slow order at C.N.R. crossing of Denison Avenue, Weston, Ontario.
- 83165 Feb. 17—Permitting the removal of slow order at C.P.R. crossing of Lesperance Road, west of Elmstead, Ontario.
- 83166 Feb. 17—Approving proposed location of pipe lines, etc., of the Standard Oil Company of B.C., near the C.P.R. tracks at Vancouver, British Columbia.
- 83167 Feb. 17—Relieving the C.N.R. from maintaining right-of-way fencing between certain mileages on their Carman Subdivision, Manitoba.
- 83168 Feb. 17—Permitting the removal of slow order at C.P.R. crossing of Notre Dame Street, Trois-Rivieres, Quebec.
- 83169 Feb. 18—Authorizing the C.N.R. to operate over the private sidings serving the Consolidated Paper Corporation Limited at Grand-Mere, P.Q.
- 83170 Feb. 18—Permitting the removal of slow order at C.N.R. crossing of Ste. Helene Street, Montreal South, Quebec.
- 83171 Feb. 18—In the matter of the accident on December 30, 1953, at the crossing of C.P.R. and Winnipeg Street, Penticton, British Columbia.
- 83172 Feb. 18—Requiring the C.N.R. to install protection at crossing of their railway and Savane Road, Quebec, P.Q.
- 83173 Feb. 18—Approving proposed location of storage tank of Imperial Oil Limited, near the C.N.R. tracks at Vita, Manitoba.
- 83174 Feb. 19—Authorizing the City of Medicine Hat, to construct a highway across the C.P.R. by means of a subway at First Street, Medicine Hat, Alberta.
- 83175 Feb. 19—Approving By-law of the Village of Forest Hill, Ont., prohibiting the sounding of engine whistle at certain highway crossings.
- 83176 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Mount Albert Telephone Company Limited.
- 83177 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and La Société de Téléphone d'Aston Jonction.
- 83178 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of Manvers, Ontario.
- 83179 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of Percy, Ontario.
- 83180 Feb. 19—Authorizing the C.P.R. to remove the station buiding and patform at Glenbrook Station, Ontario.
- 83181 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Bolton Telephone Company Limited.
- 83182 Feb. 19—Authorizing the C.N.R. to construct a siding to serve M. Sullivan & Son Limited across Reid Street, Arnprior, Ontario.
- 83183 Feb. 19—Approving supplement to Traffic Agreement between The Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of Ennismore.
- 83184 Feb. 19—Restricting the speed of trains at C.N.R. crossing of Birch Street, Garson, Ontario.
- 83185 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of South Monaghan.
- 83186 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Bethesda and Stouffville Telephone Company Limited.

- 83187 Feb. 19—Authorizing the C.N.R. to operate under the highway bridge at mileage 112.4 Viking Subdivision, Alberta.
- 83188 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of Douro.
- 83189 Feb. 19—Requiring the C.N.R. to install protection at crossing of Highway No. 21, mileage 54.64 Owen Sound Subdivision, Ontario.
- 83190 Feb. 19—Restricting the speed of trains at crossing of the London and Port Stanley Railway and Hill Street, London, Ontario.
- 83191 Feb. 19—Authorizing the C.P.R. to remove the station building and platform at Bridge End Station, Ontario.
- 83192 Feb. 19—In the matter of the application of the Canadian Northern Railway Company for an Order amending Order No. 82588, dated November 19, 1953, which authorized it to open for the carriage of freight traffic its connecting line of railway between its old Strathcona-Camrose Branch near Terminal Junction and mileage 4.4 Camrose Subdivision of the C.N.R., Alberta.
- 83193 Feb. 19—Approving Supplement to Traffic Agreement between The Bell Telephone Company and The Commissioners for the Telephone System of the Municipality of the Township of Otonabee.
- 83194 Feb. 19—Authorizing the C.N.R. to operate the bridge at mileage 59.5 Cromer Subdivision, Manitoba.
- 83195 Feb. 19—Permitting the removal of slow order at C.P.R. crossing of 55th Avenue, at Summerlea, Quebec.
- 83196 Feb. 19—In the matter of the application of the C.N.R. for an Order amending Order No. 82177, dated September 16, 1953, which authorized the installation of automatic protection at the crossing of its railway and Mountain Street, Granby, P.Q.
- 83197 Feb. 19—Authorizing the C.N.R. to operate over the private siding serving Keymet Mines Limited at mileage 57.98 Bathurst Subdivision, New Brunswick.
- 83198 Feb. 19—Approving proposed location of storage tanks, etc., of Anglo American Exploration Limited, near the C.P.R. tracks at Calgary, Alberta.
- 83199 Feb. 19—Authorizing the C.N.R. to realign their railway where it crosses Sargent Avenue in the Rural Municipality of St. James, Manitoba.

The Board of Transport Commissioners for Canada

INDEX TO VOL. XLIII

OF

JUDGMENTS, ORDERS, REGULATIONS AND RULINGS OF THE BOARD OF TRANSPORT COMMISSIONERS FOR CANADA FROM APRIL 1, 1953, TO MARCH 31, 1954

A	PAGE
Agreed charge—C.F.A. Agreed charge C.T.C. (AC) No. 49 extended in scope— Order No. 81083	45
Agreed charge—C.F.A. Agreed charge—Supp. No. 3 to Agreed charge tariff C.T.C. (AC) No. 32— Order No. 81187	73
Agreed charge—C.F.A.—Supplement No. 6 to Agreed charge Tariff C.T.C. (AC) No. 46— Order No. 81188	73
Agreed charge—C.F.A.—fuel oil— Order No. 81241	81
Agreed charge—C.F.A.—Supp. No. 12 to Agreed charge Tariff C.T.C. (AC) No. 14— Order No. 81273	82
Agreed charge—petroleum products— Order No. 81316	114
Agreed charge—C.F.A.—petroleum products—East Edmonton— N.A. Rly.— Order No. 81500	153
Agreed charge—petroleum products— Order No. 81592. Pamphlet No. 8	1
Agreed charge—petroleum products— Order No. 81666. Pamphlet No. 8	2
Agreed charge—petroleum products— Order No. 81664	167
Agreed charge—petroleum products— Order No. 81716	177
Agreed charge—C.F.A.—petroleum products— Order No. 81765	178
Agreed charge—C.F.A.—petroleum products— Order No. 81771	179
Agreed charge—C.N.R.—C.P.R.—O.N.R.—petroleum products Order No. 81776	179
Agreed charge—C.F.A.—Supp. No. 1 to Agreed charge tariff C.T.C. (AC) No. 45— Order No. 81797	180
Agreed charge—C.F.A.—for continuance of approval of Agreed charge tariff C.T.C. (AC) No. 49 with modifications— Order No. 81936	187
Agreed charge—C.F.A.—petroleum products— Order No. 81955	188
Agreed charge—Canadian Import Co., Montreal—Tariff C.T.C. (AC) No. 14— Order No. 81893	189
Agreed charge—C.N.R.—C.P.R.—O.N.O.—petroleum products— Order No. 82056	198
Agreed charge—C.N.R.—C.P.R.—petroleum products— Order No. 82082	198
Agreed charge—C.N.R.—C.P.R.—Cities Service Oil Co. Ltd. & others—petroleum products— Order No. 82082	198
Agreed charge—C.N.R.—C.P.R.—Cities Service Oil Co. Ltd. & others—petroleum products— Order No. 82083	199

Agreed charge—C.N.R.—C.P.R.—Cities Service Oil Co. Ltd. & others—petroleum products	
Order No. 82084	199
Agreed charge—C.N.R.—C.P.R.—Cities Service Oil Co. Ltd. & others—petroleum products—	
Order No. 82085	200
Agreed charge—Canadian Petrofina Ltd. for a fixed charge same as Agreed charge C.T.C. (AC) No. 14—	
Order No. 82325	232
Agreed charge—C.F.A.—Supp. No. 13 to Agreed charge tariff C.T.C. (AC) No. 14—	
Order No. 82222	225
Agreed charge—C.F.A.—petroleum products—	
Order No. 82412	240
Agreed charge—C.F.A.—petroleum products—	
Order No. 82447	240
Agreed charge—C.F.A.—Supp. No. 3 to Agreed charge tariff C.T.C. (AC) No. 48—	
Order No. 82659	267
Agreed charge—petroleum products—	
Order No. 82660	268
Agreed charge—C.F.A.—Supp. No. 3 to tariff C.T.C. (AC) No. 8—	
Order No. 82687	273
Agreed charge—C.F.A.—Supp. No. 3 to tariff C.T.C. (AC) No. 10—	
Order No. 82688	274
Agreed charge—C.F.A.—Supp. No. 4 to tariff C.T.C. (AC) No. 19—	
Order No. 82689	274
Agreed charge—C.F.A.—Supp. No. 4 to tariff C.T.C. (AC) No. 7—	
Order No. 82690	275
Agreed charge—C.F.A.—Supp. No. 3 to tariff C.T.C. (AC) No. 12—	
Order No. 82693	275
Agreed charge—Shell Oil Co. of Canada for a fixed charge same as Agreed charge C.T.C. (AC) No. 45—	
Order No. 82797	279
Agreed charge—C.F.A.—Supp. No. 2 to Agreed Charge tariff C.T.C. (AC) No. 45—	
Order No. 82798	280
Agreed charge—C.F.A.—Supp. No. 3 to Agreed charge tariff C.T.C. (AC) No. 45—	
Order No. 82799	280
Agreed Charge—C.F.A.—Supp. No. 1 to Agreed charge tariff C.T.C. (AC) No. 54—	
Order No. 82821	281
Agreed charge—C.F.A.—Supp. No. 1 to Agreed charge tariff C.T.C. (AC) No. 53—	
Order No. 82820	281
Agreed charge—C.F.A.—between C.N.R., N.A.R., Royalite Oil Co., Ltd.—petroleum products from Coleville, Sask., to points in Provs. of Alta. & Sask.—	
Order No. 82863	292
Agreed charge—C.F.A.—Cast iron pipe and fittings—	
Order No. 82878	292
Agreed charge—C.F.A.—between C.N.R., C.P.R., N.A. Rlys. Co., Husky Oil & Refining Ltd. on petroleum products—	
Order No. 82884	293
Agreed charge—C.F.A.—between C.N.R., C.P.R., and other railways and Dow Chemical Co. of Canada, Ltd., on Latex—	
Order No. 82994	302
Agreed charge—C.F.A.—B.C. Electric Rly. Co. Ltd., Canada Steamship Lines, Ltd., C.N.R., C.P.R. and other carriers and Canadian Concord Ltd., Carnation Co. Ltd., and others, on canned goods—	
Order No. 83036	303
Agreed charge—C.F.A.—butter & cheese—	
Order No. 83200	323
Accidents at highway crossings reported to the Board—	
February, 1953	48
March, 1953	82
April, 1953	131
May, 1953	170
June, 1953	181
July, 1953	212
August, 1953	226
September, 1953	241
October, 1953	268
November, 1953	282
December, 1953	306
Abitibi Navigation Co. Ltd. Water licence—	
Order No. 81011	15
Alberta Forest Products Assoc.—suspending certain provisions of C.F.A. Agent J. F. Flynn's tariff C.T.C. No. 101. Pamphlet No. 8	2

3

B

Bell Telephone Co.—telephone service to the public—	
Order No. 81007	106
Bell Telephone Co.—extended area service in Hamilton, Ont	223
British Columbia Telephone Co.—appln. for increased rates	32, 58
Order No. 81053	70
British Columbia Lumber Mfrs. Assoc.—re rates on lumber from Pacific Coast to Prairie points between Regina and Winnipeg	40
Order No. 81055	42
British Columbia Telephone Co.—issue of capital stock—	
Order No. 81105	71
British Yukon Navigation Co. Ltd.—water licence—	
Order No. 81479	130
Buckerfield's Ltd.—rates on dried ground grass and alfalfa meal	41

C

Canada Steamship Lines, Ltd.—Standard Mileage freight Tariff C.T.C. No. 248 ..	44
Canadian Freight Assoc.—for approval of Supp. No. 11 to Agreed charge tariff C.T.C. (AC) No. 14—	
Order No. 81025	16
Canadian Freight Assoc.—Supp. No. 35 to C.F.C. No. 19—	
Order No. 82411	239
C.P.R.—Standard Mileage Freight Tariff C.T.C. No. E 5210—	
Order No. 81315	114
C.P.R. Appln. for water licence under Sec. 10—	
Order No. 82915	294
C.N.R.—Appln. for approval of Supp. No. 2 to C.N.R. Tariff C.T.C. (Q.R.L. & P) No. 175	324
Calgary, Alta.—apportionment of cost of subway at 4th Street West—C.N.R.	123
Order No. 81318	127
Circular No. 273—Posting of Tariffs	102
Circular No. 274—Head-on collisions	103
Circular No. 272 Amendment No. 2—Reduction in Freight Rates	103
Colonial Steamships, Ltd., for a water licence—	
Order No. 83099	305
Colonial Steamships, Ltd.—Appln. for water licence—	
Order No. 80883	14
Cooper, E. E.—Appln. for water licence—	
Order No. 81197	80

D

Demurrage Penalties Assessed by the Canadian Car Demurrage Bureau	46
---	----

E

Equalization & Grade Crossings	42
Equalization—Class Rate Scale—	
Judgment dated March 1, 1954. (Special Edition of Pamphlet Vol. XLIII No. 23A dated March 1, 1954)—	
Order No. 83242	
Equalization of Freight Rates—	
Order No. 82339	232
Erratum—Vol. XLIII, No. 2	115
Erratum—Demurrage Penalties—	
Page 46, No. 2, Vol. XLIII	154
Erratum—Page numbers—	
Vol. XLIII No. 8, dated July 15, 1953	181
Erratum—Vol. XLIII, Nov. 15, 1953, No. 16, Page 244, error in summary of Order No. 82405, dated Oct 21	275

F

Forest Hill, Ont.—for Order directing C.N.R. to discontinue use of passing track	8
Order No. 80885	9

G

General Order No. 778—Cleaning of Stations & disinfecting of cars	104
General Order No. 779—Regulations for Transportation of Explosives & Other Dangerous Articles in Rail Freight & Rail Express Service	105
General Order No. 784—Publication of reduced classification ratings to govern freight tariffs	128
General Order No. 785—Rules for protection of impassable or slow track	150
General Order No. 786—Supp. No. 1—Transportation of Explosives & Other Dangerous Articles in Rail Freight	190
General Order No. 787—Preparation of accounts to apply to joint projects	180
General Order No. 788—Re G.O. No. 41 and bills of lading	190
General Order No. 789—Amending G.O. No. 755	211
General Order No. 790—Re Uniform Code of Operating Rules	261
General Order No. 791—Regulations for the Transportation of Explosives & Other Dangerous Articles in Rail Freight and Rail Express Service	301
General Order No. 792—Short form of straight bill of lading	322
Georgian Bay Tourist & Steamships Ltd.—Water licence— Order No. 81523	153
Grain and grain products—hold-down of Crow's Nest Pass rates in respect of local mileage rates on grain and grain products within Western Canada at intermediate points in direct line of transit between prairie points and Fort William	253
Granby Consolidated Mining, Smelting & Power Co. Ltd.—re tolls on copper ore	40
Great Northern Rly Co.—Re highway crossing over C.P.R. between Raymur & Campbell Aves., Vancouver	39
Great Northern Rly. Co.—Highway crossing protection over C.P.R. tracks between Raymur & Campbell Aves., Vancouver, B.C.	99
Order No. 81182	101

H

Haskell, Mrs. G. M. C.—re Order No. 75552 which directed the C.P.R. to construct a retaining wall at Gordon Creek, near Yale, B.C.— Order No. 82303	231
Hudson's Bay Co.—Water licence— Order No. 81174	72
Hudson's Bay Co.—Standard Freight Tariff C.T.C. No. F-8— Order No. 81213	81
Hudson's Bay Co.—Water licence— Order No. 81478 amending Order No. 81174	129
Hudson's Bay Co.—Water licence— Order No. 81735 amending Order No. 81174	167
Hudson's Bay Co.—Water licence— Order No. 81969	188

I

Interprovincial Pipe Line Co.—Oil pipe line from St. Clair River to City of Sarnia	55
Order No. 81030	56
Order No. 81031	57
Interprovincial Pipe Line Co.—Pipe line St. Clair River to Sarnia, Ont.	148
Order No. 81547	149

L

Lachine, Que.—Protection at C.P.R. crossing of 55th Avenue	139
(In French)	141
Order No. 81186	143
(In French)	144
Lachine, Que.—Improvement in protection at C.P.R. crossing of 55th Avenue— Order No. 82015	197
Lumber—Rates from B.C. and Alberta to destinations in Eastern Canada, etc.	203
Order No. 81968	210

M

Maple Leaf Milling Co. Ltd.—Rates on grain products, carloads, Port Colborne & Humberstone, Ont. milled from grain received ex-water	89
Order No. 80463	98
Mountain Differential in Passenger Fares & Sleeping & Parlour Car Charges	35
Order No. 81054	43

Mc

McInnes Products Corp. Ltd.—Appln. for a water licence—	
Order No. 81038	17
McInnes Products Corp. Ltd.—Water licence—	
Order No. 81970	189

N

Northern Transportation Co. Ltd.—Appln. for water licence—	
Order No. 81035	18
Northern Transportation Co. Ltd.—Freight tariff C.T.C. No. 13—	
Order No. 81442	129
Northern Transportation Co. Ltd.—Water licence—	
Order No. 81480 amending Order No. 81035	130
Northwest Steamships Ltd.—Standard Mileage Freight Tariff C.T.C. No. 51—	
Order No. 81085	45
Northwest Steamships Ltd.—Water licence—	
Order No. 83149	313

O

Operating Rule Book—C.N.R. & C.P.R.—Appln. of railways prohibiting publication of any book purporting to interpret or explain	10
Order No. 81009	13

P

Paterson—M. M. Paterson & Sons Ltd.—Water licence—	
Order No. 82358	233

R

Regina, Sask.—Reconstruction by C.P.R. of portion of Broad St. subway	145
Order No. 81381	147

S

Sanders (Charles)—Appln. for water licence—	
Order No. 80974	15
Sorel, Que.—Automatic protection at crossings of C.N.R. at King and Prince Streets	247
Order No. 82359	249
(In French)	250
St. Eustache, Que.—Public crossing over C.N.R. at mileage 14.65 Montfort Subd.	79
Order No. 81295	80
St. Eustache-sur-le-Lac, Que.—Safety conditions at subway at intersection of Highway No. 29 and C.N.R. Pamphlet No. 8	3
(In French) Pamphlet No. 8	4
Summary of Orders 80832 to 80987	20
80988 to 81095	50
81096 to 81147	77
81148 to 81275	84
81276 to 81341	116
81342 to 81474	133
81475 to 81580	158
81581 to 81652 Pamphlet No. 8	6
81653 to 81744	172
81745 to 81860	183
81861 to 82000	195

82001 to 82063	201
82064 to 82177	214
82178 to 82237	228
82238 to 82360	234
82361 to 82444	243
82445 to 82548	262
82549 to 82604	271
82605 to 82686	276
82687 to 82799	288
82800 to 82927	299
82928 to 83021	311
83022 to 83091	314
83092 to 83199	325
Swift Canadian Co. Ltd.—Interpretation of tariff provisions respecting export traffic to Montreal	289

T

Toronto, Hamilton & Buffalo Rly. Co.—Branch line from Belt Line to junction with C.N.R. tracks—Hamilton, Ont.	3
Order No. 80867	7
Toronto & York Roads Commission for an Order directing the replacement of existing C.N.R. and C.P.R. bridges on the old Weston Road Highway (Rogers Road) Township of York. Judgment	317
Order No. 83012	321
Train service—Appln. C.N.R. & Central Vermont Rly. Co. to discontinue passenger train service U.S. Border and St. Johns, St. Johns and Montreal—	
Order No. 82244	225
Trans Mountain Oil Pipe Line Co.—Pipe line (oil)—5.5 miles—from Sec. 28-19-E.C.M.—British Columbia to International Border	1
Order No. 80773	2

U

Upper Lakes & St. Lawrence Transportation Co. Ltd.—Water licence—	
Order No. 81341	115

V

Vallee Junction, Que.—Foot-bridge over Quebec Central Rly. Co.	219
Order No. 82000	220
(In French)	221

W

Westcoast Transmission Co. Ltd.—Gas pipe line—Brookmere, B.C. to Osoyoos, B.C.	119
Order No. 81285	122
West Lorne Lumber Co. Ltd.—Joint rates on lumber to U.S. destinations via St. Thomas, Ont. & Chesapeake and Ohio Rly	25
Order No. 81008	31

Y

Yanckanuck Steamships Ltd.—Water licence—	
Order No. 81017	46
Yanckanuck Steamships Ltd.—Water licence—	
Order No. 83062	304
Yellowknife Transportation Co.—Water licence	
Order No. 81481	131
Yellowknife Transportation Co.—Water licence	
Order No. 81736 amending 81481	178

Gov.Doc
Can
T

591314

Canada. Transport Commissioners for Canada,
Board of
Judgements, Orders, Regulations and

UNIVERSITY OF TORONTO
LIBRARY

DO NOT
REMOVE
THE
CARD
FROM
THIS
POCKET



